









# **AGE OF CONSENT COMMITTEE**

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## **EVIDENCE**

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**1928-1929**

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**Volume V**

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**Oral Evidence and Written Statements  
of  
Witnesses from the Madras Presidency  
(Ootacamund, Calicut, Madura and Viza-  
gapatam) and Coorg.**



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25	..	Sreeman Harihar Pande, Mahasayo, B.A.	Oriya Samaj, Ganjam	462	..
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28	..	Mr. C. Rajagopalachari, B.A., B.L.	Advocate and President of the Bar Association. Bez-wada.	467-468	..
29	..	Mr. Nabhi Ramamurty Pantulu Garu.	Retired District Munsif, Jagannadha Vilas, Berhampore.	468-469	..
30	..	Mr. M. S. H. Thompson, I.E.S.	Principal, Government Training College, Rajahmundry.	469-470	..
31	L.	Mrs. M. Savitramma	Secretary, Women's Indian Association, Bez-wada.	470-471	..
32	..	Rao Sahib M. V. Appa Row Pantulu Garu.	Retired Assistant Registrar of Co-operative Societies and Special First Class Magistrate, Berhampur.	471—476	..

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53	Mr. V. Subrahmanyam	Secretary, Theoso- phical Lodge, Viza- gapatam.	503-504	..
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The following persons were invited to give oral evidence but did not appear:—

#### COOTACAMUND.

1. Mr. R. K. Shanmukhan Chetty, M.L.A., Hawarden Race Course, Coimbatore.
2. M. R. Rao Bahadur T. A. Ramalingam Chettiar Avl., B.A., B.L., Coimbatore.
3. Rao Bahadur T. S. Balakrishna Aiyar Avl., B.A., B.L., High Court Vakil, Coimbatore.
4. Rao Bahadur M. Sambanda Mudaliar, Coimbatore.

#### CALICUT.

1. Mrs. Thomas, B.A., L.T., Headmistress, Municipal Girls' Secondary School, Chalapuram, Calicut.
2. A. K. T. K. M. Narayan Namboodripad, Desamangalam, Shoranur.
3. Shrimati H. Manorama Bai, B.A., L.T., Government Secondary and Training School for Women, Mangalore.
4. Mrs. M. Ramabai Madhava Rau, Kadialhail, Mangalore.
5. Khan Bahadur Haji Abdullah Haji Kasim, M.L.A., Landholder and Merchant, Udipi, 'South Kanara District'.

#### MADURA.

1. Sir Desikachari, Kt., Trichinopoly.
2. M. R. Ry. Rai Bahadur R. Swaminatha Vijaya Thevar Avl., Zemindar of Papanad, Tanjore.
3. Mrs. Manikkavasagam, Madura.
4. Mr. K. P. Janardhan Rao, Madura.
5. Mohd. Ibrahim Rowther Sahib Bahadur, Chairman, Municipal Council, Virudhunagar.
6. Mrs. Gomathinathan, Hony. Secy., Women's Indian Association, Veeragbhavapuram, Tinnevely.
7. K. V. Ramaswamy Iyengar, M.L.A., Srirangam.
8. Shreemati Kamalabai Lakshmana Rau, First Class Bench Magistrate, Tinnevely.
9. Mrs. L. Ekambaram, Municipal Councillor, Hony. Secy. and Treasurer, Tuticorin Ladies' Association, Tuticorin.
10. M. S. Sesha Iyengar, M.L.A., Vakil, Thallakulam.
11. Maulvi Syed Murtaza Sahib Bahadur, M.L.A., Trichinopoly.
12. Mr. R. Appaswami Naidu, Palace, Haiyarasanendal, Kailapathy, Tinnevely Distt.
13. Rao Bahadur P. S. Rajappa Avl., Chairman, Municipal Board, Madura.
14. Mahamahopadhyaya Sastracharya Siva Dandapaniswami Dikshitar Avl., Secy., Adwaita Sabha, Chidambaram.

#### VIZAGAPATAM.

1. Raja R. K. Ranga Row Bahadur, Zemindar of Kirlampudi, Bobbili.
2. Kaka Appu Rao Naidu, B.A., B.L., High Court Vakil and Official Receiver, Berhampur.
3. Sir R. Vinkata Ratnam Naidu Garu, Pithapuram.
4. Miss E. Lazarus, B.A., L.T., Sangon House, Atkinson Road, Veprey, Madras.



# THE AGE OF CONSENT COMMITTEE.

## QUESTIONNAIRE.

NOTE.—*The queries below may be answered wholly or in part according to the sphere of experience of each person answering. Persons willing to answer should send their written replies so as to reach the Secretary, Age of Consent Committee, Simla, by the 15th August at the latest.*

1. Is there any dissatisfaction with the state of the law as to the Age of Consent as contained in Sections 375 and 376 of the Indian Penal Code ?

2. What are the circumstances which in your opinion justify—

(1) retaining the law of the Age of Consent as it is, or

(2) making an advance on the present law.

3. Are crimes of seduction or rape frequent in your part of the country ? Has the amendment of the law made in 1925 raising the age of consent to 14 years, succeeded in preventing or reducing cases of rape outside the marital state, or the improper seduction of girls for immoral purposes ? If not, what measures would you propose to make the law effective ?

4. Has the amendment of 1925 raising the age of consent within the marital state to 13 years been effective in protecting married girls against cohabitation with husbands within the prescribed age limit—

(1) by postponing the consummation of marriage,

(2) by stimulating public opinion in that direction, or

(3) by putting off marriage beyond 13.

If not, what steps would you propose to make it effective ?

5. What is the usual age at which girls attain puberty in your part of the country ? Does this differ in different castes, communities or classes of society ?

6. Is cohabitation common in your part of the country among any class or classes of people—

(1) before puberty

(2) soon after puberty

(3) before the girl completes 13 years.

Do any of these cases come to court ?

7. Do you attribute the practice of the early consummation of marriage before or at puberty, wherever it exists, to religious injunction ? If so, what is the authority for and nature of that injunction, and does that authority prescribe any, and what penalty for its breach ?

8. Is 'Gaona' or 'Garbhadan' ceremony usually performed in your part of the country ? If so, does it coincide with or is it anterior to the consummation of marriage. Is it performed generally after the attainment of puberty and how soon after it ?

9. Do you consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage? If not, at what age and how long after puberty may a girl's physical development be considered to be enough to justify such consummation without injury to her own health and that of her progeny?

10. At what age would a girl in India be competent to give an intelligent consent to cohabitation with a due realization of consequences?

11. During your experience, professional or otherwise, have you come across cases in which cohabitation before puberty, or after puberty but before full physical development of a girl resulted in injury to her health or body or prejudicially affected her progeny? If any, give details of age and injury sustained.

12. Do you consider early consummation and early maternity responsible for high maternal and infantile mortality, or for any other results vitally affecting the intellectual or physical progress of the people?

13. Has there been any further development of public opinion in your part of the country in favour of an extension of the age of consent in marital and extra marital cases since the amendment of the law in 1925? If so, is it general or confined only to certain classes?

14. Do women in your part of the country favour early consummation of marriage for their children?

15. Have any difficulties been experienced in determining the age of girls in connection with offences under sections 375 and 376 of the Indian Penal Code? What measures would you suggest to remove or minimise these difficulties?

16. Would the difficulty or margin of error in determining the age be materially reduced or minimised if the age of consent is raised to 14 years or above?

17. Would you separate extra-marital and marital offences into different offences? If so, what is the nature and amount of maximum punishment you would prescribe for offences of each class?

18. Would you make a difference in the procedure of trials for offences within and without the marital state and if so, what would you suggest in each case?

19. Would you suggest any safeguards beyond those existing at present against collusion to protect the offender or against improper prosecution or extortion?

20. Do you consider that penal legislation fixing a higher age of consent for marital cases is likely to be more effective than legislation fixing the minimum age of marriage? Which of the two alternatives would be in consonance with public opinion in your part of the country?

21. Would you prefer to rely on the strengthening of the penal law to secure the object in view or on the progress of social reform by means of education and social propaganda?

## EXTRACTS FROM THE INDIAN PENAL CODE.

NOTE.—The bracketted portions are to be omitted from and those in italics are to be added to the original as per Sir Hari Singh Gour's Bill.

### SECTION 375.

375. Rape.—A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions:—

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her in fear of death, or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With or without her consent, when she is under (fourteen) *sixteen* years of age.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.—Sexual intercourse by a man with his own wife, the wife not being under thirteen years of age, is not rape.

#### SECTION 376.

376. Punishment for rape.—Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine (unless the woman raped is his own wife and is not under twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both).

#### Section 376-A.

376-A. *Whoever has sexual intercourse with his own wife, the wife not being under thirteen years of age and being under fourteen years of age, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.*



Extracts from the Code of Criminal Procedure 1898, Schedule II.

\* \* \* \* \*

Of Rape.

XLV of 1860 Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what court triable.
1	2	3	4	5	6	7	8
376	Rape— (If the sexual inter- course was by a man with his own wife not being under 12 years of age.)	(Shall not arrest without war- rant.)	(Summons)	(Bailable)	(Not compound- able.)	(Imprisonment of either description for 2 years, or fine, or both.)	(Court of Session, Chief Presidency Magistrate or District Magis- trate.)
	If the sexual inter- course was by a man with his own wife being under (12) 13 years of age.	Shall not arrest without war- rant.	Summons	Bailable	Not compound- able.	Transportation for life, or imprison- ment of either description for 10 years and fine.	Court of Session.
	In any other case	May arrest without war- rant.	Warrant	Not bailable	Do.	Do.	Do.
376-A	Illicit married inter- course by husband with wife not under 13 and under 14 years of age.	Shall not arrest without war- rant.	Summons	Bailable	Not compound- able.	Imprisonment of either description for 2 years, or with fine, or both.	Presidency Magis- trate or magistrate of the first class.

## Written Statements of persons not orally examined.

### OOTACAMUND.

**Written Statement, dated the 24th August 1928, of Miss S. A. FINCH, M.B.B.S., Medical Superintendent, Zenana Mission Hospital, Bangalore (Madras).**

1. Yes. In this part of the country educated public opinion considers the present Age of Consent too low.

2. (2) Early wifehood and motherhood inhibit the higher education of girls, often permanently injure their physical health and lead to the production of children of low vitality.

5. Between 12 and 13 years.

No.

6. My impression is that it is common amongst high caste Hindus at or soon after puberty.

7. To the custom which is expressed in the religious rules of each caste amongst Hindus. The penalty for breach of custom is that parents who do not marry their daughters by the time of puberty have much difficulty afterwards in arranging marriage with men of the right caste.

Among Mohammedans early marriage is not attributed to religious injunction but to the poverty of parents anxious to make provision for their daughters.

9. No.

About 16 years or 3 years after puberty.

10. Sixteen for a girl brought up in family life and later for a girl brought up in School.

11. Prolonged and difficult labour due to smallness of the pelvis.

Mohammedan girl aged 13—vesico vaginal fistula.

Hindu girl aged 14—vesico vaginal fistula.

Several cases of the development of preliminary tuberculosis during the debility following early first confinement.

It is common for the child of a mother under 16 years of age to be undersized and difficult to rear.

12. Yes—partially responsible for high maternal and infant mortality. Unskilled midwifery is also largely responsible. Early maternity is partially responsible for the backwardness of females.

14. The uneducated woman do. The educated woman do not though some of these follow the custom in practice.

**Written Statement, dated the 9th August 1928, of Mr. N. LAKSHMANAN, Social Worker, Perandurai Post, Coimbatore District.,**

2. As my sphere of experiments as a social worker for the last twenty years is confined to non-marital cases, I wish to answer the queries with special reference to the Devadasi Institution. Being myself a member of the said community I have exceptional opportunities of first-hand and inside knowledge of this degenerate institution which is peculiar to peninsular India. I know where the shoe pinches. The Devadasi system is dedication of a Devadasi's own or adopted minor girl ostensibly for temple service, but virtually for a life of shame. There are many more Devadasi girls in a South Indian City or village than are actually required for performing service in Hindu temples. It is an open secret that the arts of singing and dancing

are used by these unfortunate girls as a mere cloak for vice. When a Devadasi girl attains puberty, as much publicity as possible is given by means of a ten days Tamasha known as *Nalunga*. Any Hindu male can have free access to these girls. This is not like commercialised vice with its ugly commitments of street-solicitation, etc., though in urban areas it is fast degenerating by means of recruitment from several communities. The glamour of the so-called religious usage and the mistaken notion about custom blunt the moral sensibility of the victims as well as the social conscience of the average Hindu man and Hindu woman. To this extent, this social evil based on the 'gradation and degradation of the caste system' is of a deeper dye than the ordinary type of prostitution, "the oldest profession in the world". The All-India National Social Conference as well as the conference of the communities concerned (*vide* my reply of January 1926, to the Government Circular on Dr. Gour's Bill sent through the District Magistrate of Coimbatore) have emphasised the need for raising the Age of Consent. As I have done active propaganda on behalf of both types of Associations (national and communal) I feel that measures of social legislation should be enacted even if it is proved that public opinion is not ripe for a change. My experience goes to show that till the disappearance of the "placid, pathetic contentment of the masses" (Montague-Chelmsford Report) the state and the leaders of society must promote legislation even if it is considered by some to be in advance of the times. It is a welcome sign of the times that enlightened ladies are in the forefront in recent times and are deservedly acting as social reform advocates in matters vitally concerning the safety and welfare of the women of India. It is also gratifying that, in spite of the failure of the dyarchic system of Government, there has been more social legislation than before. The opposition emanating from certain quarters to raising the Age of Consent is not so much about non-marital cases as marital cases. These circumstances justify, in my opinion, raising the Age of Consent of minor girls being better protected from premature cohabitation and immature prostitution.

3. Crimes of seduction or rape are frequent in my part of the country. They are chiefly due to the growth of the factory system and the increasing exodus of rural labourers to far-off plantations under the Kangani recruitment system. The girls of these labourers are poor, illiterate and unsophisticated and thus become easy victims of seduction. The Devadasi system also exposes girls to sexual abuse. Dewan Bahadur T. Rangachari of Madras said in one of his famous Assembly Debates that among the patrons of these girls are to be counted some aristocrats or Zamindars. But, thank God, the Indian Penal Code in British India is no respecter of persons. It is too early to state definitely about the effect of the amendment of the law made in 1925 raising the Age of Consent to 14, but the mere fact that legislatures are devising ways and means of preventing or reducing cases of rape outside the marital state or the improper seduction of girls for immoral purposes has had a very salutary moral effect on people in my part of the country where my fellow-workers and I have carried on an intensive propaganda in favour of raising the Age of Consent.

6. Soon after puberty, the Devadasi girls have cohabitation. Sometimes fancy prices are offered by a section of the idle rich for the favours of the first night. These cases of rape do not come to Court. Public conscience is dormant.

7. Agamas and Puranas are quoted by some orthodox Brahmins who are fond of "text-torturing" and whose religion is "kitchen-religion" in the words of Swami Vivekananda. The superstition of the Devadasis says that minor girls should be dedicated, but there is no sanction of religion to the Devadasi custom as practised to-day. In the famous Assembly Debate already mentioned, no less a man than Mr. T. Rangachari has confessed that temple service of Devadasis is not an integral part of temple worship. The enlightened Mysore State has dispensed with their services and the Hindu temples north of Puri show that the Devadasis are conspicuous by their absence. My study tours all over India show that they are as good and pious Hindus as the South Indian Hindus.

10. Eighteen is the minimum Age of Consent in India. I am here referring to their mental condition, rather than physical development. It won't do to say that puberty takes place early in a tropical climate. An average Indian girl is, by temperament and training, unable to defend herself against any sudden attack by a sexually-inclined male. Her personality—as such—is not as developed as that of her Western sister. She, in India, has not individuality of her own. As I pointed out in my reply dated 29th January 1926, till the age of majority a girl is not competent to dispose property of a trifling kind and if so, how can she be regarded as capable of giving an intelligent consent for an act of shame leading to life long misery? Personally I favour the raising of Age of Consent to 21 in cases of cohabitation outside the marital relationship. Deep-seated diseases require medical remedies. A small item of reform is an enemy of a big instalment of reform. I am not saying all this as an arm-chair social reformer. As an active social worker I, with the co-operation of my fellow-workers had created the atmosphere favourable for a big and bold step towards raising of the Age of Consent.

13. I can only speak for the people of my part of the country where I have carried on an intensive propaganda. The particular classes among whom I am working favour an extension of the Age of Consent.

21. Age-long customs in India require a frontal attack, not in any one front alone, but from all sides. After a fifteen years of propaganda and persuasion through a communal organisation in my District, I see some progress of social reform by means of education and social propaganda. But the rate of progress is snail-slow. There is no doubt that social legislation is a very powerful factor in promoting social reform. The cry of religion in danger is quite out of date and is opposed to all canons of justice and fair-play. The State and society have an equal share of attention towards the physical, mental and moral uplift of the people.

**Written Statement, dated the 18th August 1928, of M. R. Ry. Rao Bahadur T. A. RAMALINGHAM CHETTIAR AVL., B.A., B.L., and M. R. Ry. VERIVADA CHETTIAR AVL., Coimbatore.**

1. The law as it is at present only prevents some glaring cases of cruelty, which used to exist in the old days and which fortunately are very rare now. The improvement of conditions is due more to an advancement in the ideas of the people than to the enactment of the law itself. In the interests of the girl affected both for her physical and mental development and for giving her a chance for bettering herself by education, and in the interests of the progeny the age fixed in the law as it stands is not high enough. The girl attains puberty ordinarily at the age of 13. So the law as it stands only prevents the unnatural cases of intercourse before puberty.

2. If we are going to allow the girl to enjoy her childhood and give her chances of self improvement physically and educationally the Age of Consent ought to be raised as proposed by Sir H. S. Gour.

3. There have been many cases of rape or seduction of the sort under reference before the Courts. But it should also be admitted that the evil which will come under the law is not very prevalent. Even where it is prevalent nobody takes the trouble to prosecute such cases. I think a lot of propaganda is necessary to bring the public opinion with reference to such matters up to the proper level. Legislation to suppress brothels and punish brothel-keepers will certainly help the prevention of this vice especially in towns and cities.

4. Whenever there is a marriage before the age fixed and the girl attains puberty before that age the husband is considered to have the right to cohabit with her and there is no public opinion against such cohabitation within the age fixed. There is a Hindu text which says that a man commits sin if he does not cohabit with his wife after she attains puberty, as thereby he prevents the birth of children who would otherwise be born. I do not think merely raising the age of consummation will in any way help in cases

under marriage. There will naturally be very great reluctance on the part of the people concerned to prosecute the husband who has intercourse with his wife below the age fixed, and it is also impossible to get evidence in such cases. I do not believe that the raising of the age of consummation within the marital state will help to protect the girl. I do not think the object of the legislation can be gained except by fixing the minimum age for marriage itself.

There is no doubt a growing body of opinion especially among educated people against early marriage and against early consummation of marriage. But it is not possible to assign any portion of it to the law as passed in 1925:

5. The usual age of attainment of puberty in this part of this country is between 12 and 14. Among the better classes probably the age is lower than in others.

6. I do not think cohabitation is common in this part of the country among any classes of people before puberty. But in almost all cases within marital state consummation is effected soon after puberty, without any reference to age or physical condition of the girl. I am not aware of any case which has come to the Court.

7. The Hindu text I referred to above is the religious injunction if it can be considered as such. Except calling it a sin I do not think any special penalty is prescribed.

9. This is more a question for the medical doctor. But it is patent to everyone that the mere attainment of puberty is not a sufficient indication of physical maturity.

10. This is a difficult question to answer. It will depend on each individual case whether a girl understands what she has to agree to. The level of intelligence of girls is not the same, but it may be said that at the age of 13 or 14 the girl cannot really understand the nature and consequences of the consent she is asked to give.

12. Early consummation and maternity stand in the way of girl's education and the girl becoming self-reliant. It stands also to reason that early maternity will cause physical deterioration of the mother and her want of knowledge and her physical condition are responsible to a large extent for the weakness of the children, and the large infantile mortality in our country. The children of immature mothers will naturally be weak and their upbringing by such mothers is bound to affect the intellectual and physical progress of the people.

13. There is a general development of public opinion in favour of raising the age of marriage and the age of consummation among the people. Even in many Brahmin families girls are married just after puberty and the fact of puberty is concealed. Even though the general opinion is in favour of raising the age, even highly educated men are afraid to give out the views and they want to go with the current and not be considered as heterodox. For instance when the first draft of Sarda's bill relating to fixing of the age for valid marriages was before the country there was not much opposition. When a few orthodox people objected to it other people whose real opinion may be different have come forward to support the orthodox view. The press being in the hands of socially conservative people however advanced they may be in political views, a lot of undue importance and advertisement is given to the objection of the orthodox people, and all desirable improvements are opposed.

14. Women are generally in favour of raising the age of marriage. Once the marriage takes place the generality of women are in favour of consummation as soon as puberty is attained.

16. The difficulty in fixing the age will certainly be less when the age is raised.

17. If the age for marriage is fixed as proposed in Sarda's bill as amended by the Select Committee I will not bring marital cases under the legislation proposed by Sir H. S. Gour. I do not think any object will be served by fixing the age of consummation in marital cases. It is not in the interests of the

aggrieved to prosecute the husband who transgresses the law. So the law so far as it relates to marital cases will be only a dead letter. The larger the punishment that is provided for such cases the less is the chance for such cases being prosecuted. So I would provide only a light punishment for such cases. Then only there will be any chance of the legislation having some effect and cases being brought to light.

18. I do not think any difference in the procedure of trials is called for.

19. Stimulating some public bodies to take interest in these matters will probably help. There are some public institutions coming into existence to resist social evils. Such bodies, recognised by some public authority, may be given some facilities for the discovery and prosecution of glaring cases.

20. My views as regards this have been expressed above and I am also of opinion that the general body of people including such classes as Brahmins among whom marriage before puberty is supposed to be the rule, are now in favour of raising the age of marriage. In the old days among Brahmins the age of marriage was 7 or 8 mostly below 10. Now the general level has risen to nearer 12 than 11. The question of marriage before puberty affects only a very small section of the people like the Brahmins and those who imitate them. Among by far the majority of the people, marriage of girls is performed only after puberty.

21. While education and social propaganda should be very widely undertaken and should be the basis for advancement, legislation has also got its function in such matters. It protects against glaring cases of injustice and harm. It also has got the effect of educating public opinion. It serves as a sort of standard to which public opinion and practice conform. So though I think that education and propaganda are essential, I cannot dispense with legislation for the attainment of social progress.

**Written Statement, dated the 25th August 1928, of M. R. Ry. Rao Bahadur T. S. BALAKRISHNA AIYAR, Ayl., B.A., B.L., High Court Yakil, Coimbatore.**

1. None that I am aware of.

2. (1) I am opposed to penal provisions of the law being requisitioned for offences committed by husbands as proposed in the Bill.

(2) No circumstances excise.

3. (a) No.

(b) Not materially.

(c) None; beyond raising the Age of Consent to 16 years of age in regard to non-marital cases.

4. (1) No.

(2) No.

(3) For other causes than the one indicated, marriages are being put off beyond 13.

5. None at present. Among Brahmins about 13, and among other castes 14 or 15. Yes. Among Brahmins age is lower, but among other castes it is higher.

6. (1) No.

(2) Yes, to some extent.

(3) No.

7. No, except in very rare cases.

8. Yes, among Brahmins and it coincides with consummation. Yes; and generally several months after.

9. No. About 2 years after puberty.

10. About 16.

11. Generally among Brahmins it is so, but among other communities it is not so.

12. Yes, to some extent.

13. No.

14. No, not the girl's relations, but the boy's relations do.

15. It is very difficult to fix the age so far as criminal law is concerned. None at present.

16. No.

17—19. None, beyond what exists at present.

20. No. Neither.

21. I would rely entirely on social reform and not on strengthening the penal law.

I have no objection, however, to the Age of Consent being raised to 16 in non-marital offences.

**Written Statement of Dr. P. CORNELIUS, C/o Mrs. NARARIAH, Coimbatore.**

1. There seems to be no dissatisfaction with the state of the law as to the Age of Consent as contained in Sections 375 and 376 of the Indian Penal Code.

2. The conditions of social life in spite of the law has not improved in spite of the present Age of Consent. Satisfactory results will happen only if the Age of Consent is raised to 16 years, and so an advance has to be made on the present law only in altering the age.

3. I have not heard of seduction or rape cases. The law is known to exist outside legal or medical circle.

4. The law has not had anything to do in protecting the married girls against cohabitation, though there is a growing tendency among educated men, though it is a slow one.

(1) There is a tendency to postpone consummation of marriage and putting off the marriage after 13 years.

(2) The law has not stimulated public opinion. I would propose education of women in order to make it effective.

5. Brahmin girls attain the age of puberty between 12 and 13 other castes between 13 and 15 years. It does differ in different classes and communities.

6. (1) Cohabitation is not common before puberty.

(2) Yes. It is common after puberty.

(3) Yes, sometimes. None of these come to Court.

7. There seems to be a religious notion that consummation of marriage soon after puberty is auspicious.

8. This ceremony is often performed and coincides with consummation of marriage. It is performed after the girl attains her puberty.

9. I do not consider the attainment of puberty as sufficient indication of physical maturity. I think an 18 years' girl would be able to stand the consummation without injury to her own health or that of her progeny but much depends on the development and condition of the girl at that time. In India after 16 years the girls have had satisfactory married healthy life.

10. In India nothing less than 16 years is necessary for a girl to give intelligent consent to consummation.

11. I have come across many cases in which cohabitation after puberty but before full physical development of a girl resulted in injury to her health and to her progeny.

(a) A Brahmin girl age 14 years suffered from hysteria on account of cohabitation, I have seen a few more cases like this.

(b) A non-Brahmin girl age 13 years underdeveloped was in labour for 2 days and gave birth to a weak little child.

(c) A Brahmin girl age 13 years, owing to her conceiving early had many sickly symptoms like pain in chest, abdomen, etc., during the period and a premature child was born, leaving her in a weak condition. •

There are other similar cases where the child died prematurely or the mother suffered from anæmia, menouleag, etc. The child mothers were usually very weak the rest of their life time.

12. Early consummation and early maternity is one of the causes for maternal and infantile mortality but for intellectual and physical deterioration it is the cause.

13. There is a further development of public opinion among the educated people in favour of extension of Age of Consent since the law in 1925 was general.

14. The old women are in favour of early consummation of marriage but the present educated women are not in favour.

15. The difficulty in determining the age will be reduced if the Age of Consent is raised to 16 or 18 years.

16. No.

17. Extra-marital and marital offences should be separated.

19. The only suggestion is the Age of Consent should be raised to 16 or 18 years.

20. Penal legislation will be effective only if every marriage is registered, otherwise fixing the minimum age will do. Public opinion is in favour with fixing the minimum age.

21. I rely on the progress of social propaganda and education to secure the object in view.

**Written Statement, dated the 26th August 1928, of Mr. M. K. GOVINDARAJULU CHETTIAR, B.A., B.L., Advocate and Joint Secretary, Coimbatore Vysia Conference, Tirupur (Coimbatore District).**

1. Yes: There is a general and effective dissatisfaction with the state of the law regarding the Age of Consent.

2. (2) The necessity of making an advance on the present law is apparent and inevitable in view of the fact that the early marriages, consummation and cohabitation have been responsible for the absence of a strong and healthy progeny and the extraordinary high rate of infantile mortality.

3. The cases are rare; the amendment of the law in 1925 raising the Age of Consent to 14 has not succeeded in reducing the offences referred to outside the marital state and I think, in my opinion, the Age of Consent may be raised to sixteen.

4. The amendment of 1925 raising the Age of Consent within the marital state to 13 years has not been effective in protecting married girls against cohabitation with the husbands within the prescribed age limit by any of the methods mentioned in sub-clauses 1, 2, 3 of question (4). I think it is eminently desirable that legislation as suggested in Sarda's bill and the proposed Age of Consent bill, should be taken recourse to without delay as these will alone achieve the object in view.

5. Girls attain puberty between the ages 13 and 14 and it certainly differs in different castes as also in the same caste the girls in different families attain puberty at different ages; the age of attaining puberty depends on the constitution and the mode of life followed in the particular cases. Another important circumstance is that in communities in which pre-puberty marriages are compulsory, for example, Brahmins and Vysias, girls attain age at correspondingly earlier ages than their sisters in other communities amongst whom marriage after puberty is common.

6. (1) No.



(2) Cohabitation soon after puberty is common and there are cases (also it is common) in which a man, who has lost his first wife and then marries a second time insists upon the consummation of marriage soon after puberty and in almost all of such cases cohabitation at the same time is common. Cohabitation soon after puberty is common among the Brahmins and Vaisias amongst whom marriage before puberty is compulsory.

(3) Cohabitation before the girl completing 13 years is now-a-days becoming common in all communities and it is partly due to imitating the practice of the other castes, for example, the Brahmins and Vysias.

7. No. Earlier religious texts in particular and all religious texts in general do not advocate early consummation of marriage but on the other hand insisted that girls should have attained full and complete development of the body. The authorities for this position so far collected are innumerable and they will be produced at the time of the oral examination or sent by post if desired earlier.

8. *Garbhadhan* is generally performed in the communities among whom pre-puberty marriage is compulsory. After marriage and puberty, it coincides universally with the consummation of the marriage. It is performed in many cases immediately after puberty and also within 1 or 2 years after attainment of puberty.

9. Attainment of puberty by itself is not a sufficient indication of physical maturity to justify consummation of marriage; at least a period of three years interval must elapse after puberty to justify consummation without injury to her health and that of her progeny.

10. At an age not less than sixteen.

11. In many families where girls are married at an age of 12 and 13 and amongst whom consummation and cohabitation follow immediately after puberty, the parents are almost physical wrecks and many of them and their children had premature ends. Many cases of heart failure among the parents and indigestion, colic and enlargement of the liver among the children had a high toll of mortality.

12. Yes.

13. Yes; there has been general development of public opinion for the extension of the Age of Consent and that is more keenly felt by the parents amongst whom pre-puberty marriage is compulsory.

14. No.

15. Usually no difficulties arise but if there is no proper proof forthcoming from the Birth and Death Registry Office the parties try to evade by creating false evidence as to fact of ages and also getting spurious medical certificates and the obvious remedy to minimise such difficulties is to insist that a registry of vital statistics and immediate expansion and efficient control of the Birth and Death Registry Department rendering it possible and incumbent that the age, not only for this purpose but also for other purposes (for example, for evidences in Courts) can be got at correctly.

16. The difficulty would be reduced if the Age of Consent is raised to fifteen.

17. No; any such distinction will defeat the object of the legislation in that it will unnecessarily have a partiality based on sentiment towards one set of same offences created by the fact of marriage while after all, the effect, which is sought to be rooted out in both cases marital or extra-marital is the same.

18. For the abovesaid reasons, no such difference in procedure is necessary.

19. Collusion to protect the offender should be made as effective as the primary offence itself by inflicting equal punishment; improper prosecution or extortion shall be dealt with in the same manner or should be dealt with for just as for offences like malicious prosecution extortion as per law of crimes or law of torts as the case may be.

20. Both the pieces of legislation for fixing higher Age of Consent and for fixing the minimum age of marriages are necessary.

21. To achieve the object in view at least in an appreciable way in the interest of the country, legislation coupled with education and propaganda are quite essential.

**Written Statement, dated the 31st August 1928, of M. R. Ry. Rao Bahadur N. RAMASWAMY AIYAR, AYL., B.A., B.L., Advocate, Government Pleader and Public Prosecutor, Coimbatore.**

1. So far as I am aware, the law as contained in sections 375 and 376, is considered quite satisfactory and no dissatisfaction exists.

2. So far as marital and non-marital intercourses are concerned the ages have been fixed sufficiently high as the law stands at present. Under the climatic conditions of India puberty occurs earlier than in cold countries and sexual instincts occur and are developed correspondingly early. This is a circumstance which justifies retaining the law as it is for some time at least and not making any advance.

3. I have not heard of crimes of seduction. If they exist at all they must be rare. There have been cases of kidnapping or abduction of girls with a view to force or compel them to marry against their will and or the will of their parents and tying of "Thali"—sacred cord—round their necks. But this is considered as no marriage at all. These crimes occur only in some parts and that once in a way. Even in such cases no sexual connection has come to light. Crimes of rape, though they occur, are far less frequent.

4. The amendment of 1925 has no doubt been effective in protecting married girls against cohabitation with their husbands by postponing the consummation of marriage among the uneducated people. The educated people are themselves aware of the evils of early consummation and do not require the fear of offending the law or public opinion to put off consummation till after the girl is 13 years of age. I think that public opinion requires to be stimulated among the uneducated people. I think that much can be done by educating the public as to the evils of early consummation and the benefit of putting it off and the result will in my opinion be certain though it may be slow in coming.

(3) In any case the amendment of 1925 has not resulted in putting off marriages beyond 13.

5. Generally between 11 and 12 years. Among Brahmins and Vysia girls puberty occurs a little sooner—perhaps by a few months—than in the other communities.

6. I take this as applying to marital intercourse.

(i) I have known no cases at all of cohabitation before puberty, nor

(ii) soon after puberty except as a very very rare instance,

(iii) nor before the girl completes 13 years.

This last is due to the fact that (a) among Brahmins the fear of the law among the uneducated and the opinions among the educated prevent cohabitation before the girl is 13 years and (b) among the non-Brahmins in South India generally marriages take place at a later age.

No cases have come to Court. In non-marital cases there have been instances of cohabitation by way of forcible rape before and soon after puberty and also before the girls completed 13 years. Such cases are no doubt rare and have come before Court also.

7. I have not heard of cases of such consummation before puberty. After puberty as the Hindu Society exists at present the early consummation, wherever it exists, is to the best of my knowledge not generally due to religious injunction, except by way of rare exception. I have not personally studied the texts or translations on the subject but have only heard it said that consummation should take place within 15 days after the first appearance of menses and that it is sinful to postpone it later. Of course this was said in relation to Brahmin girls.

8. *Garbhadhan* ceremony is performed in the Brahmin community of South India after puberty and that immediately before the sexual intercourse between the girl and her husband takes place on the night of the nuptials, whatever the interval between the puberty and nuptials may be. I do not know the custom prevailing in the other communities.

9. Consistently with medical opinion I do not think that generally the mere attainment of puberty is a sufficient indication of physical maturity to justify the consummation of marriage. I would fix a period of 6 months to one year after puberty according to the age at which a girl attains puberty before her physical development may be considered to be enough to justify consummation without injury to her own health and that of her progeny.

10. In my opinion a girl will be fairly competent to give an intelligent consent with due realisation of the consequences generally when she is about 13 years and without doubt when she is 14 years old.

11. I have not known any instances of cohabitation before puberty except in cases of forcible rape. I have heard of stray cases of injury to a girl's health or body due to cohabitation before full physical development. These have been so few and far between that I am not able to remember them and the rare occurrence of cases of such cohabitation in my opinion point that they are an exception and not the rule.

12. Yes.

13. I am not aware of any general further development of public opinion in favour of extending the Age of Consent in marital and extra-marital cases since the amendment of 1925; or even confined to any particular classes.

14. Women do not as a general rule favour consummation of the marriages of girls before they have completed 13 or 14 years of age.

15. So far as I have known such cases have been decided entirely on the opinions and the evidence of qualified medical people and no difficulty has been experienced in determining the ages of girls.

16. Assuming that any difficulty has been felt in fixing the age when the minimum is fixed at 13, or margin of error was great, I do not think it can be reduced by fixing the age at 14. It ought to be fixed at least at 16 to secure the end in view but I do not think it will be feasible to do it at any time in view of the enormous difficulties and sufferings it will entail on the Hindu community.

17. Yes. I would separate the two offences. I would leave the punishment in the cases of extra-marital offences as it exists now. In the case of marital offences I would abolish imprisonment altogether and suggest a fine extending up to Rs. 500 or to Rs. 1,000, for the reason that imprisonment involves the separation of the couple and may break their hearts at a time when they may be very attached to each other and may cause more serious injury. Imprisonment for any offence whether involving moral turpitude or not always lowers the person imprisoned in the eyes of all, so that when he returns after undergoing it, he finds that society is in a mood to shun him and very often he will fail to command affection and respect even from his wife. His relationship with his wife and her people becomes embittered and their domestic future will ever be unhappy.

18. In marital cases I would suggest a First Class Magistrate trying the accused. In non-marital cases I would retain the present procedure.

19. Cases of improper prosecutions have been comparatively few. I would leave the matter as it stands and not suggest any extra safeguards in non-marital cases. In marital cases, I would suggest the District Magistrate's sanction being obtained before initiating a prosecution.

20. Owing to the ordinary custom prevailing among the non-Brahmins marriages of girls in that community do not generally take place before the girl attains her puberty which normally occurs in her 13th or 14th year. In any case no girl is ordinarily married before she is at least 12 years old. Owing to certain customs prevailing in the Brahmin community, owing to the difficulty of selecting a suitable bridegroom on account of various injunctions as to Exogamy and Endogamy postponement of the marriage of a

girl till she is 11 or 12 years of age has become a common feature. Though therefore the fixing of a minimum age of marriage has practically become unnecessary it may prove a wholesome check if it is fixed at 11 years. I am not in favour of raising the Age of Consent beyond the present limit. Public opinion will be in favour of the Age of Consent being retained as it is though a small number may favour its being slightly raised. I think, however, there will be a very great volume of public opinion against fixing a minimum age of marriage.

21. I am not in favour of further strengthening of the penal law, at any rate I do not think it should be done now. I am of opinion that in the ordinary adjustment of social conditions which are growing and changing, early marriage and early consummation will at no distance of time become things of the past. Social reform which is already raising its head and social propaganda may also be trusted to do their work and bring about a beneficial change in the matter of early consummation as in other social evils.

**Written Statement, dated the 31st August 1926, of Mr. M. SAMBANDA MUDALIAR, B.A., B.L., High Court Yakkil, Mayor House, Coimbatore.**

1. There is some dissatisfaction so far as I am aware in regard to the state of law as to the Age of Consent as contained in sections 375 and 376, because I consider that 13 is not proper age when a girl could be expected to give consent as she is not of mature age to discriminate the consequences of her action.

2. I am of opinion that it is highly necessary that there should be a modification in the present law so far as age is concerned. In the case of marital relationship the minimum age must be 14. In the case of non-marital relationship the age should be 16.

3. Cases of seduction are rare in this part of the country. There have however been a few cases of abduction of girls and the offences are committed in view to force or compel them to marry against their will and the will of their parents. Crimes of rape are very rare.

4. In all communities except Brahmins and Vysias, marriages are generally performed after puberty and consummation of marriage takes place at or after 15 years of age in the case of girls. But in the case of Brahmins and Vysias and some other higher castes, the marriages are performed before puberty and consummation takes place immediately after or within six months of attaining age. Even educated gentlemen in the Brahmin community as well as in the Vysia community are of opinion that consistently with the injunctions laid down in the Sastras, consummation should take place immediately after puberty or within six months. I am afraid therefore that the present proposal of raising the age to 14 will meet with great opposition from the Brahmin and Vysia community as a whole. No doubt the educated people realise the evils of early consummation and in rare instances they overcome the prejudices of the ladies and the other aged people by putting off the consummation to 14 or even 15 years but such cases are rare.

The best way of combating this evil is by stimulating public opinion and social legislation ought not to be resorted to, even though it may be highly desirable.

In any event the amendment of 1925 has had no effect in putting off marriages beyond 13.

5. Between 13 and 14. Many Brahmin and Vysia girls attain puberty a little earlier.

6. (1) No.

(2) Yes, in higher classes such as Brahmins and Vysias.

(3) Generally not, before the girl completes 13 years.

No cases have come to Court as yet so far as I am aware.

In non-marital cases there have been rare instances of cohabitation by way of rape before and soon after puberty and before the girls completed 13 years. There have been very few cases in Court.

7. I consider that the practice is due both to what is considered as religious injunction and to the climatic conditions of the country; so far as my enquiries go, there is no punishment prescribed for breach of Sastrie injunction.

8. *Garbhadhan* ceremony is not performed among non-Brahmins. That ceremony is however performed in the Brahmin community of South India at the time of the consummation on the night of the nuptials.

9. I am strongly of opinion and I am supported in my view by medical authority that mere attainment of puberty is not a sufficient indication of maturity to justify the consummation of marriage. I would fix a period of at least one year after puberty for consummation being performed.

10. In my opinion a girl in India will be competent to give an intelligent consent only after she completes her 16th year.

11. I know of instances wherein cohabitation before the girl attains full development has not only affected her health but also the progeny. There have also been a few deaths consequent on conception by girls of 12 and 13, not being strong enough to bear confinement.

12. Yes.

13. I am not aware of any general development of public opinion in favour of extending the Age of Consent since the amendment of 1925 but the opinion of educated gentlemen in the higher castes favours extending the Age of Consent.

14. Women do not as a rule favour consummation of the marriages of girls before they complete 13th or 14th year of age.

15. So far as I know, such cases have been decided entirely by medical opinion and no difficulty has been experienced in determining the Age of Consent.

16. Extending the Age of Consent to 14 or above will not in any way reduce the difficulty.

17. Yes. The two offences should be separated. In the case of extra-marital offences the law as at present obtaining need not be changed; but in the case of marital offences, I would like to urge that the punishment of imprisonment should not be inflicted in any event but a high fine should be inflicted extending up to Rs. 1,000. Imprisonment for any offence whether involving moral turpitude or not always lowers a person and is likely to result in unhappiness not only in his family but will result in social ban being placed on the culprit.

18. I would like that all cases of this kind should be tried in the Sessions Courts as is being done now.

19. Cases of improper prosecution are rare. To be on the safe side, I would suggest that sanction should be obtained from the District Magistrate before prosecution is launched in case of marital offences.

20. I consider that of the two alternatives penal legislation fixing a higher Age of Consent for marital cases is likely to be more effective than legislation fixing a minimum age of marriage. I am afraid there would be very stout opposition in the country against fixing a minimum age of marriage. Public opinion will be in favour of the Age of Consent being raised to 14.

21. Progress of social reform by means of education and social propaganda will necessarily be slow and will not achieve the end in view. I would therefore prefer to give a lead to social reform by resorting to legislation wherever possible.

**Written Statement, dated the 23rd November 1926, of Mr. M. K. B. GOWDER, Ketti P. O., Nilgiris.**

1. As I confine my evidence to the members of the Hill Tribes on the Nilgiris, as noted below, I find that no case was brought to a Court under sections 375 and 376 of the Indian Penal Code, and hence I could not pass any opinion on this. The population as per census 1921:—

Badagas	40,135
Todas	582
Kotas	1,197
Kurumbas	3,189
Irulas	2,098
<b>TOTAL</b>	<b>47,201</b>

2. (i) There is no justification to retain the present Age of Consent.

(ii) An advance must be made on the present law.

3. As stated in the first question no case was brought to a Court. Mere raising the Age of Consent will not do as cases of rape or consummation in marital relations never come to Court. There must be only one age, *viz.*, 18 years for girls and 24 years for boys being the minimum for any purpose like marriage consummation and for any other ceremony in marital relations and also others. This way of fixing only one age is the best remedy for all defects.

4. The Age of Consent, *viz.*, 13 years for cohabitation is not effective, once a girl is married.

(i) No purpose will be served by postponing consummation after marriage.

(ii) Public opinion also must be stimulated.

(iii) The best means is by putting off marriage beyond 13 years, *viz.*, over 18 years.

5. Puberty takes place generally between 12 to 14 years.

6. (i) Cohabitation is common before puberty among the Todas.

(ii—iii) After puberty among other Hill Tribes. Never these cases come to Court.

7. In case of the Todas, it is attributed to religious injunction and no authority is known to them.

8. *Gaona* or *Garbhadhan* ceremony is not in existence.

9. Attainment of puberty is not sufficient indication for consummation. Not until the age of 18.

10. A girl will be competent to give consent only at the age of 18.

11. In case of Todas, where cohabitation is prevalent before puberty, the female population is less, *i.e.*, out of 582 Todas there are 332 men and 250 women, and 226 of them, majority being women, are infected with venereal disease. The women are not naturally healthy, and they rarely give birth to children and this resulted in their number decreasing by a hundred every ten years. All these are due to only reason of their having cohabitation with girls of ten years and before puberty.

12. As early consummation and early maternity is prevalent among other tribes, there are several cases of maternity mortality and over 50 per cent. of infantile mortality and physical deterioration of the issues. One thing noticeable is in the case of early maternity the first issue rarely survives and the second issue also dies, in many cases within two years.

13. There is public opinion condemning the peculiar customs of the Todas which is now being stopped, but more propaganda is needed.

14. Mothers do not like early marriage of their daughters.

15. It is difficult to fix the age since the people are illiterate and the village statistics of births, must be up to date as in the case of Municipalities.

16. There will be no difficulty in determining the age when only one age is fixed.

17. There must be separate extra-marital and marital offences.

18. For sometimes to come *mere fine* will do for marital cases and the existing punishment is good enough to outsiders.

18. There must be different procedure for extra-marital and marital offences, but the present procedure is all right.

19. The best safeguard is to entrust the Panchayats to deal with these cases for people like the Hill Tribes where Panchayats are in existence.

20. Legislation fixing the minimum age of marriage is more effective than Penal legislation fixing a higher Age of Consent.

21. There must be legislation after a fixed period (say 3 years) of propaganda.

**Written Statement, dated the 22nd November 1928, of Mr. C. A. SUBRAMANIA IYER, C/o Mr. S. G. Mahadeva Sastry, Retired Deputy Postmaster, Agrabaram, Satyamangalam, via Erode.**

I have been closely watching your enquiry in reference to the age of marriage and the Age of Consent and have noted the different depositions given by the witnesses in Madras. I am not concerned with the depositions of the people of Northern India. The three leading Vaidic religions of India arose only from the South. Though the western education and influence have brought about the gradual deterioration of the Aryan religion, it still persists only in the South. The international vedic research society has of late been organized in New York by Jagadees Chatterjee and the British section of the society was organised in London on the 19th of November 1928, by the same Chatterjee with Lord Ronaldshay in the chair. Chatterjee will similarly organise branches in the different parts of the world. This is sure evidence to prove the interest of the learned men to appreciate the wisdom of the East. Though in the present circumstances the western science seems to be in clash with Eastern institutions a better understanding of the East is destined in the nearest future to bring about a complete revolution in their view of life, in the different countries of the world. The Shastras of East and the wisdom of the ancients are destined to lord over science in the nearest future. Science will be driven by necessity to acknowledge the absolute truth and superiority of the Shastras.

Now to the point, according to the Vaidic conception the "Vivaha" has to be performed only before completion of age of 10. A girl is 'kanya' only so long as she does not attain puberty. At or after puberty she is no more a 'kanya'. The significance of the term 'kanya' can be understood and appreciated only by a reference to the institution of 'kanya' worship during Navaratri celebrations. A girl who has not attained the 'abdapurthi' i.e., 'completion of the first year' is not eligible for 'kanya' worship as it cannot have an understanding of the 'achara'. During the nine days of Navaratri—girls of progressive ages are worshipped in due order from second, third, etc., up to 10th years respectively. It has to be noted that the 'kanya' worship can be last performed when she is passing her 10th year and not after she has completed 10th year. *vide* Durga Sapthasathi introduction Bombay Edition (Prayoga Edition) and also the 9 different names given in worship to the 9 girls of the respective years. So it is clear that a girl who has passed 10 is not entitled to be worshipped though she is a 'kanya'. Marriage of a 'kanya' after the 10th year is not illegal or invalid. But it is still undesirable—*vide* the age of marriage of Sita in Valmiki Ramayana 7th year by calculation and 8th including the period of gestation (Garbashtama) *vide* also the marriage of Sukanya to Chyanana in Devi Baghwata. In the Conlist there, Saryati the father of Sukanya discusses fully the laws of marriage *in extenso*, gives all the pros. and cons. Sukanya is aged 8 at marriage. *Vide* also the marriage of Sasikala to Sudarsuva in Skanda. 3—

**Devi Bagawatha.** This story explains fully the feelings of the girl and her partner. As to the Vaidic sentiments read carefully the discussion between Bhishma and Amba regarding the Hindu ideas of "Vinaya" "Maha-Bharata" vide Valmiki Ramayana Uttarakanda, discussion between Ravana and Kumbivasi when the former proposes to kill Maltee. This story will explain whether widow marriage can be tolerated. Next as to consummation or Age of Consent, your Committee has referred to the opinion of Sussuruta who fixes age at 16. I have to point out the Vagbhatha also in his Ashtanga birudhaya adopts 16. According to the opinion of the western orientalists, the Smirits precede medical texts. If medical books prescribe 16 to be the proper age, puberty in those days was about that time. I am sorry Mr. T. R. Ramachandra Iyer was not able to explain the point. If the Committee wants now to postpone consummation I have only to suggest that the necessary medical facilities may be rendered to avert premature or early puberty and so build up the constitution of the girl so that she will attain puberty only after 16. Instead of a sarcastic reference to Sussuruta it will be more desirable for the scientific west to help the deteriorated east and restore her to natural conditions when Sussuruta was the authority. For further reference if any, the undersigned is prepared to furnish necessary information.

**Written Statement, dated the 10th August 1928, of Mr. C. S. CHELUVA IYER, B.A., LL.B., Pleader, Orient Temple, Ootacamund.**

1. There is no dissatisfaction so far as I have personally known, or heard, with the state of the law as it now stands.

2. (1) The law as it stands is not violated at all, and, if it is not the intention of the legislature to bring in honest and peaceful citizens within the corners of the Indian Penal Code, I see no necessity to alter it. Reasons are given in the answers to other questions.

3. Crimes of seduction or rape occur very seldom, and it is practically non-existent in this part of the country, nay, in the Tamil Districts of the Madras Presidency, with which I am fairly familiar. Before 1925 too, there had been no such crimes to have justified the passing of the law raising the Age of Consent to 14 years, and therefore, the amendment of 1925 has not affected the matter either way. One or two isolated cases occurring somewhere in a vast country like India should not be held as anything but exceptions.

4. In the married state, consummation, to the best of my experience, never takes place before 13 years for the girl. Puberty does not occur before the 12th year, and more frequently after 13. Except in the case of 2nd or 3rd marriage of the man, in which case the bride is not less than 13 or 14, the consummation, as a rule, does not take place within six months of the attaining of puberty. Therefore, there is no justification for interference by legislature.

5. Girls attain puberty between 12 and 13. This holds good in some rare well-to-do Brahmin families and amongst their class, it will not be incorrect to put down the average at 13½ years. Amongst the better class of non-Brahmins, girls attain puberty between 13 and 14, and it is not rare to meet with instances of puberty after 14. Since amongst the non-Brahmins, girls are not married before puberty, and frequently one year after it, the attempted legislation seems to aim at Brahmins rather than any other caste.

6. (1) Cohabitation never takes place before puberty, and when it does at all, it is only in cases of rape, outside the marital state. Under such circumstances, the crime is punishable, without any reference to the age of the girl.

(2) Very rarely, and only in cases where a man marries for the 2nd or 3rd time, having previously lost his wives consummation takes place soon after



puberty. In the majority of such cases, the girl has passed her 14th or 15th year. If such a girl had not attained puberty, she must belong to a very poor family; but if her father happens to be fairly well-to-do, her puberty is not announced, but kept secret, till one or two months after marriage.

(3) I have not known of any instance if the husband has any care for his wife at all, in which consummation is desired by him before she attains her 13th year. On the other hand, I have known instances of 3rd marriages, of brides of 14 or 15, living under the same roof with the husband, attaining age while there, and consummation taking place six months after. If in any extremely rare case consummation has taken place in her 13th year, there has been no grievance on either side. No such cases were ever brought to the public, and never to court.

7. Amongst Brahmins of Southern India, except the Andhras, of whom I have no experience, I can say with authority, that there is no existing practice at all of consummation of marriage before puberty; and if it does take place soon after puberty, it must be attributed to such rare cases, as I have instanced above, in answer to question No. 6. There is no religious injunction for cohabitation with a girl before, or at puberty. Some people quote a Sanskrit verse, attributing a heinous sin to a man, who allows his wife to pass sixteen days after the first symptom of puberty; but, this is done, as justifying a very rare instance of the kind mentioned in answer to question No. 6. The verse is quoted from an exploded authority, if it ever existed at all, and nobody in general has recourse to it.

8. "Garbhadan" ceremony is performed in my part of the country. It takes place on the day of consummation. It does not mean anything more than an injunction to the husband to consider that the cohabitation which he is going to have presently is not for satisfying his lust but for raising pure and unalloyed issue, by his wife, who is a virgo intact even in mind, for perpetuating his lineage as descending from a long line of holy Rishis.

9. Although the first symptom of puberty in a girl is an excuse for festivities, we do not consider that a girl has attained such a development, as would make her quite fit for cohabitation, until the menses occur at regular intervals of 27 days, for at least six periods. We consider that puberty in a girl is an unmistakable symptom of her having attained the state of bearing a child. The desire for intercourse with man must have been present in her, before the symptom manifests itself, and therefore it is a sufficient indication of physical maturity requiring cohabitation. In my experience, keeping girls beyond one year after maturity, without cohabitation, does not conduce to the bearing of healthy children, and that nature is violated. When there is appetite, it is the best time for giving food and not after the appetite passes off, or becomes stale, and it is also playing with dangerous materials, if one were to consider that a woman's chastity should remain at that high standard as the Brahmins are enjoined to desire. I can quote a hundred instances of girls, whose marriage has been consummated at their 14th year, becoming mothers in their 15th, living with perfect health, and dying at a ripe old age, surrounded by a large family of sturdy, vigorous and intellectual children and grand children.

10. This question is not very clear. What is an intelligent consent to cohabitation? Every girl in whom sexual passion has previously awakened, manifests it, by what is called puberty. Then, when she consents for cohabitation, she knows what it is, and that she would conceive, and become a mother in due course. If this knowledge is an intelligent consent with a due realization of consequences then she undoubtedly gives such a consent. If, on the other hand the words mean, that she should possess the knowledge that she is strong enough to easily give birth to a child, and that for that purpose all her physiological organs have attained sufficient development, and are ready, I can at once say that no girl gives an intelligent consent to cohabitation, with a due realization of consequences, even if the consummation of her marriage takes place after her 18th year.

11. I have come across rape cases, some of them, on girls before puberty, and some after that. In the former girls were injured to the extent of being infected with some venereal disease or other traceable to the offender, and attended with extensive physical injuries. In one of such cases, the girl was 12½ years old, and had not attained puberty, but she deposed that she felt a strong ejection of fluid into her. There were no external injuries on her. In the latter class of cases, rape was never accomplished without great external injuries and rarely, by one single individual, if he did not happen to be an European soldier. External injuries were always sustained in the struggle, without any internal injury of a physiological nature, affecting her own health, or that of her progeny, although she did not appear strong and robust. There is another vague term here, *viz.*, "full development after puberty". Full growth in a human being goes on till the 25th year; and the development of every organ depends upon its use and exercise. Most of our women attain their full growth and development when they are mothers of two or three children. Are they to be kept without the carnal knowledge of man till their 25th year?

12. After puberty had been properly established, early consummation or early maternity has nothing whatever to do with infantile of maternal mortality, or for any other results, vitally affecting the intellectual or physical progress of the people. I have stated that this bill is mainly aimed at the Brahmins. Look at the practical side of the question. Brahmins generally marry a girl very young, when she is unable to know sex. As a class, one can easily maintain that the Brahmins are superior to any other race in the world in force of intellect. This practice of marrying very young girls has been going on for centuries? Talking of physical progress, there is nothing wanting in a Brahmin, except training and exercise. Therefore, the existing practice does not impede progress in any direction.

13. Public opinion should be classified in two ways, *viz.*, the opinion of the majority of fathers and mothers, who are prone to give an intelligent attention to matters, and, who by nature and environments, do not come before the public, to deliver lectures, and so forth, and, people, who court the notice of the Government, and the applause of the world by delivering lectures, and writing to the press. Simply because, they do so, they have no claim to be considered to possess higher thinking powers, or greater patriotism. They are more or less trying to imitate the west, and condemn all their own, without paying a thought to what is suitable to India. Those who do not come before the public are 99 per cent. of the population of the country, and they know nothing about the Age of Consent, simply because, they have not experienced any kind of suffering or grievance, under the existing practice. Change is not necessarily an improvement. Age of Consent is the product of lawyers, who happen to be in the legislative councils, imbued with the idea of perpetuating their names, but with their experience confined to cases, which had come before court, which are few and far between. And this is done, in the name of social reform.

14. All our women favour consummation of marriage, after puberty is properly established in a girl, but never before that and they don't think the consummation to have taken place early, but just timely.

15. There have been no practical difficulties in determining the age of the girl, in connection with offences under section 375 or 376 I. P. O. except that the prosecutors would give her one or two years below the actual, and the accused one or two years above it. Age is more or less accurately determined, with the aid of doctors, and other circumstances, peculiar to the case. Therefore, there are no difficulties felt.

16. No.

17. Rape is an offence, whatever may be the age of the woman. Sixteen is an unnatural and artificial raising of a woman's age, in order to satisfy the clamour of notoriety-hunters. Once the offence of rape is established, I don't see how the age of the woman would logically be brought to affect

it. This is in all extra-marital offences. When it occurs in a marital-state age no doubt is an important factor. I have already said that after a woman attains puberty, she is fit for cohabitation. Then the question being, whether she had attained puberty or not. Age has nothing to do with rape, except as a guidance, based on the general experience, that a girl attains her age between 13 and 14. Therefore, 13 is a safe medium for guidance to ascertain it. Punishment in such really bad cases might be given at two years, in the maximum, consideration being paid to the fact, that punishment given to the husband, recoils with greater force on the wife herself, in this community. Therefore the offence naturally falls under two different categories, and may be made two different offences.

18. In the marital state, I would suggest a trial, not extending beyond the court of a First Class Magistrate, assisted by a competent jury, and in the extra-marital state, I would leave the law as it is.

19. In most cases, coming under my experience, there has been collusion between the girls' parents, and the husband. This is always attributable to the consideration, which the parents bestow, for the future of the girl; and in cases of this sort it is the police, who always press for severe punishment. But, in really bad cases, collusion does not occur. In mild cases, a warning would satisfy the law and the parties.

20. People don't desire any legislative interference in marital relations, which are purely social and religious concerns. Raising the Age of Consent, or fixing the minimum for marriage, are deemed to be mischievous interferences.

21. I would, certainly, leave the matter for the progress of social reforms to deal with in future.

### **Oral Evidence of Mr. C. S. CHELUVA IYER, Pleader, Orient Temple, Ootacamund.**

*(Ootacamund, 11th November 1928.)*

*Chairman:* You have been at the bar here for how many years?

A. A little more than 31 years.

Q. You claim to speak for all Brahmins of Southern India minus the Andhras.

A. Yes.

Q. This opinion which you have given is typical of the general Brahmin feeling on the subject except the Andhras?

A. Yes.

Q. Which are the classes besides the Brahmins in which pre-puberty marriages take place?

A. Almost all castes who think that they have attained a higher civilization than the rest of their community.

Q. What are those castes?

A. The Shaiva Vellalas and all others who pretend to have a little more learning and civilization than the rest of their community. They all take to pre-puberty marriages.

Q. Are these all the classes among whom pre-puberty marriages are in vogue?

A. Yes, pre-puberty marriages take place among all the Brahmins and the Shaiva Vellalas.

Q. I want you to give me an idea of the percentage of the Brahmins in this Nilgiri District.

A. I think it is about 4 per cent.

Q. And what is the percentage of these castes that you have mentioned as having pre-puberty marriages, the Vellalas and others?

A. We can't talk about this district. This is a hilly place where there are Badagas and Todas. There are no Vellalas here. I am talking generally of the whole of Southern India.

Q. What do you put the percentage of Brahmins at in the whole of Southern India?

A. Of the entire Hindu population 7 or 8 per cent. are Brahmins.

Q. Including the depressed classes?

A. Yes.

Mr. Mudaliyar: They are only about 3 per cent.

Chairman: Would you correct your figure?

A. If his opinion is based on statistics I am not going to say against it. That is my own opinion and is not based on official statistics. This is my impression.

Q. So 97 per cent. are non-Brahmins.

A. If Mr. Mudaliyar's figures are correct, they are 97 per cent.

Q. Pre-puberty marriages take place only among these 3 per cent.

A. It takes place among the Brahmins and the Vellalas. I instance only the Shaiva Vellalas.

Q. Then pre-puberty marriages are in vogue amongst the Shaiva Vellalas and who else?

A. The Comety Chetties and generally all others who pretend to have attained higher civilization than the rest of their community. In one household a boy may marry a girl before she attains puberty and a sister of his may be married after puberty. It is scattered about. Those who claim to have attained greater civilization marry before puberty.

Q. I want you to give me the total percentage of those who observe pre-puberty marriages.

A. Nearly 20 per cent. of the Hindus have pre-puberty marriages.

Q. Among the rest 80 per cent. there are no pre-puberty marriages.

A. No.

Q. You seem to have an idea that this legislation is intended only for the Brahmins.

A. Because it is not only as a rule that pre-puberty marriages take place among them, but pre-puberty marriages take place at any cost. Among the other classes it is only an option.

Q. If there is legislation don't you admit that it will affect the 20 per cent. whether pre-puberty marriage is a rule amongst them or compulsory.

A. It might affect them in two ways. One is sentimental and the other is more than sentimental, practical. Amongst the Brahmins the grounds are sentimental as well as practical. Whereas among the other classes who have taken to pre-puberty marriages the grounds are only sentimental. They would not suffer.

Q. Why?

A. Because pre-puberty marriages among them are only sentimental and not a rule.

Q. You think this sort of legislation in social matters to be a mischievous interference and therefore these 20 per cent. of the people who have pre-puberty marriages will not agree to it and consider it to be an undue interference in social matters.

A. This is what they think.

**Q.** Do you realize the motives that are underlying this proposed legislation of the two kinds? I mean the Sarda's bill fixing the minimum age of marriage and Dr. Gour's bill raising the Age of Consent. Have you realised in your mind the principle or the motive why this legislation is undertaken at all?

**A.** Well, the motive as set forth by these two gentlemen, I don't know.

**Q.** Surely you have read the objects and reasons of these two promoters of this legislation.

**A.** Unfortunately I could not get any paper to read that. There was a similar bill by the Rt. Hon'ble V. S. Sastri and I have read his objects and reasons and I thought his objects and reasons would be in conformity with the objects of these two promoters.

**Q.** What do you think are the underlying principles of this legislation?

**A.** Whatever the objects, I think these 20 per cent. of the people whom I have named, if the law is passed, will be seriously affected. It is very easy to talk.

**Q.** I want you to realize the motives underlying this legislation. You don't seem to take account of them at all.

**A.** I don't know the motives and if you tell me what they are, I will be in a position to give you the answer.

**Q.** Yes, I will tell you. Medical opinion is almost unanimous that a girl of the modern day or of 20 years back is not fit for motherhood both physiologically and physically.

**A.** What sort of medical opinion?

**Q.** Medical opinion of women doctors.

**A.** You mean allopathic doctors.

**Q.** Yes. We have not examined any homeopathic doctors.

**A.** I should like to know how many of these doctors have examined young girls of 14 and 15. If that is the motive it is not in conformity with practice which we have here.

**Q.** The motive and practice may be militant. The fact remains that medical opinion is to the effect that before 16 complete a girl is not fit to be a mother and if she does become a mother she and her progeny suffer. Assuming that that is so would you like to modify any of the statements made by you?

**A.** No.

**Q.** You do not accept the opinion even though that opinion may be true.

**A.** It may be true of a section of people whom those doctors are conversant with and not of the section of people with whom I am conversant and for whom I am speaking.

**Q.** You mean to set up yourself as a medical authority for these 20 per cent. Do you want to differentiate your medical knowledge about these 20 per cent. only?

**A.** My medical knowledge is nil. My experience is that that opinion is not in conformity with the practice in vogue. My experience does not tally with the medical opinion.

**Q.** Right or wrong is another matter about which we have nothing to say, supposing it is right that a girl is not fit to be a mother before 16 would you be inclined to modify any of the statements?

**A.** No.

**Q.** You say that it is a mischievous interference. Would you, on that ground, adhere to the present law of 13?

**A.** I have said that 13 does not affect the matter at all, because no girl is married and no consummation ever takes place below 13 or even 14.

Q. Don't say 14. It will mean that you require a change of law. However, because you think that no consummation takes place below 13 you would have the law as it is and not abolish it.

A. I would have it as it is.

Q. I have not quite followed your idea about extra-marital cases. Would you abolish the extra-marital age altogether? Do you want to make out that rape is an offence irrespective of any age? You seem to think, in answer to question No. 17, that consent or no consent illegal connection by anybody not the husband of the girl is an offence.

A. In extra-marital state rape means without the consent of the girl.

Q. Or even with consent if the age of the girl is below 14.

Mr. Mudaliyar: All connection with a woman, without her consent, against her will, by force or with or without her consent if she is below 14 is rape.

A. In paragraph 6 (1) I don't take account of consent of the girl. When she is under 14 this holds good.

Q. The present extra-marital age is 14. Would you be in favour of raising that age?

A. I should consider that it will be an interference because a girl who gives consent at 14 is always rare and I have found that in the cases in which I have appeared and also in very many cases of which I have heard she does not give consent. Rape is not committed on a girl if she is below 14 and she consents.

Q. Even with her consent below 14 it is rape. Suppose we take a girl of 14 and a man has sexual intercourse with her . . . .

A. Then I would always consider that there was no consent on the part of girl.

Q. That is the law. Consent or no consent, below 14 it is an offence. If we raise the age to 15 the girls upto the age of 15 will be protected.

A. At 14 she cannot give consent to sexual intercourse by a man who is not her husband.

Q. Is she capable of giving consent when she is 15? Would you change it to 15 or 16?

A. I would change it if the girl at 14 does not consent to cohabitation. In many cases she does.

Q. If out of a hundred instances in one instance she does you cannot change the law on that account. A girl of 14 is now protected. Do you want a girl of 15 or 16 also to be protected against strangers?

A. She is better protected by the law as it is.

Q. You don't want a girl of the age of more than 14 to be protected.

A. No. She is protected already.

Q. Above 14 it will not be an offence.

A. If the girl consents it will not be an offence.

Q. But if we raise the age to 15 or 16 consent will not count. Consent or no consent it will be an offence upto 15. So that the girls of that will also be protected.

A. I think they are already protected.

Q. You say in many cases where pre-puberty marriages take place the fact of puberty is concealed. Is that a fact?

A. Yes.

Q. In what number of cases do you think it happens?

A. It happens among Brahmins generally. There are reasons also for such things taking place. I would say about 10 per cent. of the Brahmin girls are married after puberty with puberty concealed.

**Q.** Would you say the same thing about the Vellalas also?

**A.** Among them puberty is not concealed.

**Q.** Is that idea of pre-puberty marriages due to any religious injunction? Would you be able to lay your finger exactly on the rule which ordains that marriages must take place before puberty?

**A.** There is no religious injunction like that. The orthodox believe that there is a rule that the girl ought to be a 'Kanya' before she is married; and according to the definition of 'Kanya' the age varies from 10 to 12. After 12 the girl is no longer a 'Kanya'.

**Q.** In answer to question No. 7 you say that a verse is quoted from an exploded authority, if it ever existed at all, and nobody in general has recourse to it. Which is that exploded authority?

**A.** Some years ago when the Rt. Hon'ble Mr. Sastri brought that bill for raising the age some verses were quoted against it. I don't think I am able to tell you just now what exactly that verse is. Some people quote the authority from somewhere. According to that they say that there must be cohabitation within 16 days of the attainment of puberty.

**Q.** That is the exploded authority you refer to.

**A.** Yes.

**Q.** You mean that nobody in practice takes to that.

**A.** Yes. It is extremely rare. It is only to oblige the urgency of the rich man who marries for the second or the third time that the Purohit says that it is a heinous sin for a man not to cohabit with his wife within sixteen days of the attainment of puberty.

**Q.** Is that the reason why you call it an exploded authority?

**A.** Yes.

**Q.** By that you mean that the authority is shaken so much that it is observed more in its breach than in practice.

**A.** Exactly.

**Q.** How many days or months after puberty do they wait?

**A.** For about six months they wait.

**Q.** Generally they wait for six months after puberty before any consummation takes place.

**A.** Yes.

**Q.** May I take it now, as you are representing the general opinion in Southern India that before six months expire there is no consummation and that it is not considered to be a sin by the 20 per cent. people who observe pre-puberty marriages?

**A.** No. It is not considered to be a sin.

**Q.** But the authority is there, although consummation among these 20 per cent. even takes place six months after puberty.

**A.** But it is not practised at all. In one out of a thousand it may be taking place. That is in very poor families.

**Q.** But that does not make the injunction any the less. There are some authorities and religious injunctions which lay down that consummation should take place within 16 days of the attainment of puberty.

**A.** There are, but they are not put into practice.

**Q.** In your answer to question No. 9 you say the desire for intercourse with man must have been present in her before the symptom manifests itself and therefore it is a sufficient indication of physical maturity requiring cohabitation. Have you any authority, medical or otherwise for that?

**A.** It is a commonsense matter.

**Q.** It is not commonsense matter to all.

A. Any doctor may be able to tell you if a certain man suffers from malaria there must be malarial germs before he can get fever. Therefore this attainment of puberty or appearance of menses is enough to show that a woman has sexual desire however incipient it may be.

Q. Then before a man dies there must be something to show that the death is to come.

A. The next thing is that in my experience I have always known that it is so.

Q. In the course of your answer to question No. 9 you say when there is appetite it is the best time for giving food and not after the appetite passes off or becomes stale. Do you think that year after puberty the appetite becomes stale? What exactly do you mean by 'stale'.

A. It means that she had the desire for intercourse and it is left to Providence when she would have the husband. That is what will be the idea of the girl.

Q. She will be a disappointed woman.

A. Certainly. And if she is an unmarried girl she will try her very best to get married as soon as possible and if she does not get the husband she will get a husband somehow or other.

Q. What is the age at which a girl will try to get the husband somehow or other?

A. 15.

Q. You think after 15 she must have a husband and you think it is positively dangerous to keep her unmarried after 15. There is the danger of her spoiling her chastity.

A. There may be other dangers also but I do not count others as dangers in the face of this.

Q. Amongst the Brahmins is there a large number of widows who have become widows before 15 and remained so afterwards?

A. Yes.

Q. Would you consider that there is a similar danger with regard to that class of girls also who have become widows at 15 and remained so afterwards?

A. It is dangerous if they are given an opportunity. There is no opportunity given to them. They are very carefully guarded.

Q. So can be a girl of 15 who is unmarried. She can be guarded too.

A. Amongst the Shudras, I have already said, after the girls attain their puberty they are very carefully guarded. They are not allowed to go out. In that case the only thing that I would say is that opportunity would be wanting.

Q. But there are many cases in which they can resist the opportunities.

A. All those exceptional cases I am not talking of. I am talking only of the generality of the people.

Q. I want to have your experience as to whether you have much scandal about these women who become widows after 15 and continue to remain so.

A. Most of them are good. There are very few scandals.

Q. You seem to have missed the point in question No. 10. You have dealt the question as if it is with reference to the marital cases. But the question of consent or no consent is mainly with regard to extra-marital cases. At a certain age a girl can give intelligent consent after which she requires no protection and the question therefore is at what age can such a consent be given when she fully realizes the consequences. There are some people who think that a girl requires protection even at 16 or even 18. It is



necessary to decide at what age can she give intelligent consent. Up to a certain age the consent of the girl is no consent. What age would you suggest when she can give real and intelligent consent?

A. At 14.

Q. You don't want it to be raised.

A. No.

Q. In answer to question No. 11 would you say that you have not seen a single girl mother under 16 who has either suffered herself or her progeny has suffered.

A. No. I have not seen a case in which a girl has suffered on account of early consummation.

Q. In answer to question No. 12 you say early consummation or early maternity has nothing whatever to do with infantile or maternal mortality. This I think is part of your experience and is not based on any medical opinion.

A. Yes, this is my experience and not medical opinion.

Q. Again in the course of your answer to question No. 12 you say, this practice of marrying very young girls has been going on for centuries beyond the mythical. What is your authority for saying that the practice has existed for so long? We can be certain about the Smriti period. If anything like this were to be seen either in the Ramayan or the Mahabharata period amongst the Brahmins, do you think that the stories of Ramayan or Mahabharata are mythical?

A. I say this rule has been in existence.

Q. You surely don't put the Ramayan or the Mahabharata before the Smritis. You must go beyond the Vedas if the practice has been so old. Would you quote anything from the Shruties to show that the girls were married at say, 8 or 10 or before puberty?

A. I would have come prepared with the authorities if I had known that I would be required to quote them.

(The witness wanted to quote here a passage from some speech which he could not find out immediately.)

Q. What sort of authority would it have been?

A. Some story is given in Upanishad of a certain Brahmin going to look for an unmarried girl, "Kanya", who had not attained puberty and who was below 12 years.

Q. Do you remember what Upanishad it is?

A. I do not.

Q. Would you send us that authority?

A. Yes.

Q. You say in the course of your answer to question No. 17, after a woman attains puberty she is fit for cohabitation. I take it that this is your experience.

A. Yes.

Mrs. Nehru: Can you tell me whether you are against all social legislation or against this particular legislation?

A. I am myself a bit of social reformer and I want to feel my way before I give my consent. If the legislation is a good one I would support it.

Q. On principle you are, in favour of social legislation but you are against this particular legislation.

A. Yes.

Q. Are you against fixing the minimum marriageable age also?

A. I must be against both. My idea of marriage is that it is a sacrament. It ought to be performed before puberty, so far as the Brahmins are concerned.

*Q.* Do you think that this has so far done any harm to the people of India?

*A.* On the other hand incalculable good it has done.

*Q.* Do you base that opinion of yours on the experience of the whole world?

*A.* Experience of men of learning.

*Q.* You think early maternity does no physical harm to the girl or her progeny and you base that opinion on your personal experience.

*A.* Nor have I heard any harm being reported to me.

*Q.* But are you aware of the fact that the experiences of the scientists are absolutely different to the experiences of the laymen. The layman however wide his experience may be can never be sure of facts about which he professes to give his opinion against a scientist.

*A.* Scientists are a set of faddists, I should think, because they get their own opinion somehow or other thrust into the world.

*Q.* Would you include amongst them both Ayurvedic and allopathic doctors? If both Western and Indian medical men unanimously say that it is wrong to say that a girl is fit for cohabitation before 16 would you agree to that?

*A.* These medical men, I don't think, have first hand experience of these matters.

*Mrs. Nehru:* Do you think that a layman would have a first hand experience of these matters if not a medical man?

*A.* Not so. If it is against science, it ought to have found a voice before.

*Q.* Even the fact that early marriage has been in existence for centuries has not been proved by you. Can you prove it?

*A.* I can prove it from the time of Sruthies and I can just bring you an authority to say that it was from the very early times that the Brahmins were in the habit of performing marriages before puberty.

*Q.* Are there no instances in the Puranic Books of marriages taking place after puberty?

*A.* Marriages never take place amongst Brahmins after puberty.

*Q.* Why do you think that Brahmacharya is necessary only for boys and not for girls?

*A.* As the girls seem to attain puberty at an early age than the boys, Brahmacharya is not necessary for girls.

*Q.* What do you think is the time for boys when they generally attain puberty?

*A.* 16 years.

*Q.* Should they be married below 16 years?

*A.* Well: they needn't be married because the danger that is attached to the girls by not marrying is not present amongst them because it is not considered so.

*Q.* Then you shift your ground and are taking your stand on expediency.

*A.* Why: I don't. It does not apply. That is in vogue. I am only saying that any lapse on the part of a woman is considered to be much more dangerous than any lapse on the part of a man.

*Q.* If there is no fear of any lapse taking place, then will you think it right to marry the girl late?

*A.* I approve of it but not in the case of Brahmins because they think that if a girl were to attain sufficient maturity before marriage, her chastity is mentally violated by her thinking whether this man is good or that man is good. So there must not be even any mental violation in the case of Brahmins.

**Q.** What have you to say in the case of Gargee?

**A.** I don't know. Perhaps that might be an exception.

**Q.** Even so, should we not try to aspire and reach the high ideals followed by Gargee?

**A.** They were not aspirations but they were. Therefore you cannot make rules for such exceptional cases and make all of them to come under that heading.

**Q.** Have you been connected with any girls' institutions, for instance a girls' school or orphanage?

**A.** Yes, I have been. I know the Widows' Home at Madras. I am not officially connected with this.

**Q.** Have you been in personal contact with girls?

**A.** No.

**Q.** Do you know any girls going in for high or university education?

**A.** Yes. There are girls in my own family.

**Q.** Have you asked them whether they consider it a hardship to remain unmarried till they pass their examinations and complete their education?

**A.** I have never asked them.

**Q.** In paragraph 1 you say that there is no dissatisfaction as far as this law goes. I would like to know what were the means you adopted to know whether there was such a dissatisfaction or not.

**A.** Firstly cases like these showing me that there is any dissatisfaction have never been known to me and secondly it is my experience and of the other people also of light and learning whose opinion and experience coincide mine.

**Q.** Have you heard of public meetings being held for raising the Age of Consent and for fixing the age of marriage?

**A.** Yes.

**Q.** Then why do you say that you base your views on your personal experience?

**A.** I have interviewed some people but they could not give any definite answer as regards my experience but they dogmatically say that the Age of Consent should be raised. They could give no reason for that.

**Q.** In Delhi there was a women's meeting and women's meetings have been held all over India where women in very great numbers have come and their names have not gone to the press no one knowing about the individual woman attending those meetings and yet they have supported the resolutions in favour of the raising of the age of marriage. What are your reasons for saying that it is only by people who want to be known either in the press or public that such meetings are held?

**A.** I don't know anything beyond what I have already premised that my experience, my statement and all this opinion is confined to only south Indian Brahmans excepting the Andhras but there may be meetings by people who are busybodies and who want to get notoriety.

**Q.** Do you admit of the fact that there have been meetings held in South India against the present provision of the law?

**A.** Yes.

**Q.** That in those meetings ladies have come in great numbers and before they came they were perfectly aware of the fact that their names will not be published in the papers. Why did they come to meetings knowing this?

**A.** The very fact of their speaking and talking about these matters is notoriety enough.

**Q.** Have you heard of any meeting held by the orthodox ladies opposing this proposed legislation?

**A.** Yes.

*Q.* Can you tell me when it took place and where it took place?

*A.* I have read in newspapers that meetings of ladies were held in Kumbakonam and Palghat. About two or three weeks ago there was a meeting of ladies in Kumbakonam against this impending legislation.

*Q.* Was that also the work of notoriety hunters?

*A.* Yes. This was an answer to the agitation kept by the notoriety hunters.

*Q.* What was the number of ladies present?

*A.* I cannot say.

*Q.* To know the public opinion on this subject, your statement and evidence is one method. May I know what are the other methods by which we can know public opinion?

*A.* I would give you some papers also; and we men in a matter that concerns women, our gathering of opinions is mostly based upon the opinions of women because we are men and we don't know whether it is good or bad and whether we feel the pain or not. It is impossible for us to know of any girl and that is a matter for which we ought to get the opinions from the women themselves. Therefore when men speak all these, we voice the women.

*Q.* We have had recourse to this one means of elucidating information by calling witnesses and have got a number of women witnesses who have without exception told us that the ages should be raised. Even orthodox women have come and given evidence that the ages should be raised. Under these circumstances what would you advise us to do?

*A.* I would advise you to leave the matter as it is.

*Mr. Mudaliar:* I want to get at your statement as far as possible to interpret it to the other members. You believe that amongst the Brahmins of South India, pre-puberty marriage is the rule, that it is ordained by Shastras, they believe it would be unfair to change that, that no physical injuries or physical bad consequences had followed; from that, you mean that Brahmins have proved their intellectual superiority not merely in Southern India but over the rest of the world and therefore there was no intellectual deterioration on account of these early marriages; and, further you believe that if any advance in raising the age is made, it might involve the moral danger I take it even there you are confining your remarks only to the Brahmin community?

*A.* Yes, because in the case of Brahmins they have to do certain religious duties.

*Q.* What are those religious duties?

*A.* Supposing a man dies in the husband's house, she will have to go with the husband whether the marriage is consummated or not. If anything takes place in the husband's house, she has to go there.

*Q.* Supposing the marriage itself does not take place?

*A.* There is another danger there. If marriage doesn't take place before 16 years, there may not be any marriage so to say but she will conceive of the same and there will be moral danger.

*Chairman:* You say that the extreme point is 15 for the danger, are you safe at 9, 10, 11, etc.?

*A.* I say that beyond 15 you cannot be safe at all. I am safe at 9 up to 14 we are quite safe, and the girl will not go apparently of her own accord to another man.

*Q.* We are of two opinions. You say that 14 is the safe age. Till 14 there is no danger for girls apparently going wrong, and 15 is the utmost limit. Is that what you mean?

*A.* Not in generality of cases.

*Q.* If the marriage is up to 14, where is the objection?

A. There are two things, viz., the consummation of marriages called 'nuptials' and the marriage. The marriage ceremony ought to take place before the girl attains puberty. That is the Shastras, that is what we believe in and that is the practice and we have had no troubles whatsoever. Consummation takes place generally after 14.

Q. But are you not aware of the fact that consummation takes place whatever may be the age?

A. Consummation takes place only after puberty, for instance if a girl who is 13½ years old had intercourse with her husband and if one wants to say that the girl had intercourse with her husband at the time, you want to make it penal. Therefore you not only make it a breach of the law which is a sin but at the same time you pay a premium for both the boy and the girl to tell a lie.

Q. So you are really in favour of retaining this section as regards the marital relations are concerned?

A. Yes.

Q. Don't you think it advisable to repeal the law as regards the rape so far as the husbands are concerned under the present law?

A. It is a dead letter whether it is repealed or not.

Q. Do you think you are fair in suggesting that there is a grave moral danger to the Brahmins?

A. I think so.

Mr. Mitra: May I take it that you consider early marriages as one of the most important causes for the intellectual excellence of the Brahmins over all the classes in the world?

A. I haven't given a thought to that. What I said was that the Brahmin community was considered to be intellectual in Southern community but that existed in spite of the fact of early marriages; and early marriages have nothing whatsoever to do with intellectual excellence.

Q. It may be in spite of this drawback they are superior.

A. You may consider it a drawback or a merit.

Q. Is early marriage considered to be a merit?

A. By itself it is a merit but not with regard to intellectual superiority because the girl as soon as her mind begins to open, she knows the husband and she likes the husband *vice versa* and as such there is no third party coming even mentally in the girl and she is easily taken into another family and moulded into that family when she is young rather than when she is old and knows her own mind.

Q. Do you think that there is any religious injunction for fixing the age of marriage?

A. Yes. The Shastric injunction is that she must not have attained puberty. She must be a *kannya*. In the generality of cases girls do not attain puberty before 12 and therefore it is always safe to marry a girl before her 10th year but it should in no instance go beyond the age of 12.

Q. Are you against legislation on social matters?

A. Yes. I am against legislation because legislation on social matters is always considered by me and very many others as mischievous interference of the legislature.

Q. Then may I take it that you are on principle against legislation on social matters?

A. Yes. But what I say is that on social matters there needn't be any legislation; but I am for a change.

Q. That is a different thing. You say you don't want any interference from the legislature in all these matters. Is that correct?

A. The legislature seems to be a sort of grammar. It must not be a kind of order that comes from without into the social conditions of marriage.

**Q.** If there are facts to prove that early marriages and early consummation take place, would you change your opinion? This legislation is not meant to cover only South India but is for the whole of India. If there are facts to prove that early marriages had taken place and early consummation was also attended with serious results, will you be on principle against any legislation?

**A.** I say legislation is a mischievous interference on social matters.

**Q.** Do you consider early consummation a social matter or any other thing? Is it a social matter at all say consummation at 10 or 11. I am not speaking of South India at all. I am speaking about the whole of India.

**A.** If the conditions are so bad in Northern India, then there must be a legislation so far as your portion of India is concerned.

**Q.** I put it to you if there are cases of early marriages and early consummation, will you be against any legislative interference?

**A.** I would rather leave it to social associations.

**Q.** Is it because of any religious injunction that you don't want legislative interference?

**A.** Even if there be nothing in the shastras, even then, I will object to any legislation. Legislation by Government I will always oppose on social matters.

**Q.** You say that the age of puberty amongst the Brahmans is 12 and 13 and amongst non-Brahmans it is 13 and 14. Can you explain why this is so?

**A.** The Brahmin girls generally are better fed and they don't do any manual work and there are various other reasons also, perhaps the heredity has much to do with them too and they generally attain puberty earlier than the non-Brahmin girls. Now that is a fact, whereas in the case of non-Brahmins the girls are working physically and the mind is idle there.

**Q.** As regards the raising of the age for extra-marital cases--where a widow or an unmarried girl is abducted for intercourse don't you think a higher age will secure the girl?

**A.** No: I don't think so.

**Q.** You know that for contract and other legal purposes the age is 18 and certainly you think there must be some reasons for fixing the age of 18. What do you think the reasons to be?

**A.** You see Sir, there are two things, *viz.*, maturity of understanding ordinary things and maturity of understanding the world and the various laws are two quite different matters and the ordinary passions which are implanted by nature in man are quite different from manmade laws.

**Q.** Do you approve of the age fixed for civil purposes?

**A.** I approve of it but I don't know whether it is quite reasonable. There are certain people who haven't the maturity of understanding even at 20.

**Q.** Don't you think that the age 18 fixed for civil purposes is not very much wrong?

**A.** No: I don't think so.

**Q.** Don't you think that in a marital state the full physical development is the main consideration while in an extra-marital case the mental development and capacity to realize the consequences of her act is also an essential consideration.

**A.** One thing, Sir: In a marital state it is the husband who cares more for the wife than anybody else. Therefore if the girl is not fit for cohabitation he would desist from cohabitation on account of the love whereas a third man is not expected to do so and therefore in that case a little one or two years was considered necessary.

**Q.** As regards the extra-marital case, will there not be any objection from the outside public also in fixing a higher age?

A. No. There cannot be any objection and therefore I make a difference in age because there may be a consent in extra-marital cases between 14 and 15 and above 14 but if you raise the age from 14 to 16 then there is a chance for the girl to assert her sex-self and then go astray so that the detection of those cases becomes more and more difficult. Therefore I would keep the age at 14.

Q. Don't you think that greater protection is necessary?

A. In your raising the age there is no protection but your keeping the age under 14 there is protection.

Q. So you would leave it as it is?

A. Yes.

Q. Would you prefer even a lower age?

A. I don't think so. After 14 years there is a chance of the girl consenting to it and then pretending not to have consented to it and thus concealing the whole thing. Therefore I would keep the age at 14.

Mr. Mian Muhammad Shah Nivas: Do I take it Mr. Iyer that you are speaking only on behalf of the Brahmans excepting the Andhras?

A. Yes.

Q. Do you confine your present law to the Brahmans excepting Andhras?

A. Yes.

Q. Do you confine your remarks to Madras Proper or to the Bombay Presidency also?

A. My remarks are confined to some part of the Bombay Presidency, for instance amongst the Deshastas and Konganasthas, and there the practice is something like the South Indian Brahmins—Tamil Brahmins.

Q. Are you speaking on behalf of the Brahman doctors?

A. I exclude them because they are a few and these people are not affected at all by any means.

Q. I am talking of these persons who might be experienced in some sciences; and why should you exclude them?

A. I have interviews about this with many doctors and especially with a Brahman doctor who told me that the physical development of the girl is about 16 or 17 and before that age consummation of marriage would not be proper; but I am of opinion that the doctors are basing their opinions on no grounds whatsoever. If the doctors say that a girl physically and mentally suffers before 16 or 17, it cannot be acceptable to me.

Q. In your answer to question 3 you say that crimes of seduction or rape occur very seldom in Tamil Districts and it is practically non-existent in this part of the country of the Madras Presidency. Do you think this tallies with the Administrator's Reports? I think it is to my knowledge very much exaggerated. Have you seen the figures given by the Government for the rape cases in Southern India? Am I to understand that you have considered the statistics given by the Government?

A. I haven't considered the statistics given by Government.

Q. Therefore this is a guess-work.

A. No: it is not.

Q. How then do you come to the conclusion?

A. This is not a guess-work. This is a generalization of two or three districts.

Q. Then you restrict your remarks in paragraph 3 to 3 districts only. Is that not so?

A. It is taken into consideration and generalized as the probable case on the whole of India.

Q. Have you seen the statistics given by the different governments of the different provinces?

A. No: I haven't

Q. What do you think if we legislate for other communities excepting the Brahmins?

A. As regards the wants and things of other communities I cannot speak with so much confidence as I spoke with regard to the Brahmin community. I have got one objection to it, i.e., it is a social matter and apart from that I have no other objection.

Q. In your answer to question 6 you say that there is no religious injunction for cohabitation with a girl before or at puberty. Is it not so?

A. There is a religious practice in theory. There is no religious injunction. This is how the Brahmins generally consider the position. Of course it is not imperative at all.

Q. Then if it is not imperative, then the Brahmins needn't marry before puberty. What is the underlying idea of the Brahmins marrying their girls before puberty. Can you tell me?

A. There are various other kinds of reasons. One reason is the budding mind of a young girl ought to be completely enveloped in her husband and if she attains puberty and begins to consider whether this man is good or that man is better and so far, the idea of chastity is violated amongst the Brahmins.

Q. In your answer to question 9 you have come to the conclusion that girls have been consummated at their 14th year becoming mothers in their 15 year and are living with perfect health and dying at a ripe old age. How have you come to this conclusion?

A. I belong to a place where there are many Brahmins to the tune of 50,000 and there I have seen very many girls being married before the 10th or the 12th year and then consummation marriages taking place between 14 and 15 and their becoming mothers in their 15th year.

Q. Have you come across with a number of girls giving birth at the age of 15 and dying?

A. There may be cases but not on account of the age.

Q. Therefore you think that the age makes no difference?

A. Absolutely no difference.

Q. Don't you think that a girl giving birth to a child at 17 or 18 is more safe than a girl of 14 or 15 giving birth to a child?

A. If you take a hundred girls becoming mothers, almost all of them escape and if one or two die, it must be due some other causes whereas if a girl becomes mother in her 20th year, I think the percentage of mortality would be more in these cases.

Q. Is a girl fully developed at the age of 14 or 15 for the purpose of sexual intercourse?

A. Yes.

Q. You say that all girls desire consummation after puberty.

A. The sexual desire is there already and puberty is only a symptom of that desire.

Q. Are you talking of Brahmins and others?

A. I am talking of Brahmins only and of no other community.

Q. Do you think that all women of all communities favour consummation marriage soon after puberty?

A. Yes.

Q. Is this opinion based on facts?

A. It is based on personal observation.

Q. How?



A. Supposing I go into some other community—not a Brahman community—there I see half a dozen girls matured and then I have heard within one or two years of their puberty becoming mothers and in some rare instances they run away with some man before that.

Q. Therefore you think that all of them desire consummation soon after puberty.

A. This desire is implanted in all animals.

Q. This is more or less your personal impression. Is that not so?

A. I cannot give you statements and reasons that I went and interviewed such and such girl and ascertained whether she has got the sexual pain or not, but these are observations which one may state. My personal observation leads me to the conclusion that all the men whatever their community or nationality may be whether they are Hindus or Mahomeds have desire for sexual intercourse.

Q. You say that these matters should be done by social service. May we know in what way?

A. These are called rules of conduct.

Mr. Shah Nawaz : You say that this should be done by social reform. Would you ask the people to carry out social reform?

A. These are called rules of conduct based upon human experience. There are times when human experience will have to change and if that comes in socially it is better for the legislature to recognise it rather than forcing social practice upon the community by extraneous legislation.

Q. Do you want social reform in this direction?

A. No social reform in this direction is necessary at the present moment.

Q. You think Brahman girls must be married before puberty and consummation must take place on the girl's attaining puberty.

A. If chastity means anything it is better that the community should be left as it is.

Q. Do you think a boy of 18 and a girl of 14 are desirous of having children? I understand from the Shastras that a man and woman must have children.

A. They are quite indifferent about children.

Mr. Bhargava : According to Hindu Shastras the reason for marriage itself is the begetting of children?

A. According to Hindu Shastras it is sacrament. Every religious rite will have to be performed by both.

Q. Is the begetting of children a very great reason?

A. Begetting legitimate children in regular line of succession has been the main aim of Hindus and especially of the Brahmans.

Q. Sexual intercourse is only justifiable for the purpose of begetting of children and for no other purpose?

A. Among the Brahmans it is so.

Q. You just now said that in a married couple of 18 and 14 there is no desire of begetting children?

A. There is desire for intercourse and the result is birth of children.

Q. When they have intercourse they have no desire for begetting children?

A. If I may answer you they do not have intercourse for the purpose of begetting children.

Q. And as you said the main purpose of marriage among the Brahmans is the begetting of children. It follows that for that purpose the marriage need not be consummated at that age?

A. It does not follow because marriage is made between a boy and girl by their parents.

Q. And sexual intercourse is only justifiable for the purpose of begetting children?

A. Yes.

Q. It is unjustifiable for any other reason?

A. It does not follow.

Q. According to Shastras man can have sexual intercourse for the mere purpose of pleasure?

A. Yes.

Q. I understand you to mean that when puberty sets in that is an indication that a certain woman has got sexual desire?

A. Yes.

Q. After two or three years this desire gets keener and keener so that according to you at the age of 15 it is in its full swing?

A. Yes.

Q. After that it becomes stale?

A. No.

Q. I understand that when you use the word stale you mean keen.

A. No; it is both keen and stale according to circumstances.

Q. From your reply to question 10 I understand that you make a difference between physical consent and intellectual consent so far as married intercourse is concerned?

A. I do not make any difference as regards physical consent and intellectual consent. When I say consent it is always intellectual consent; physical consent is no consent.

Q. I understand that a girl of 12 has limited power of consent as compared to the power of consent of a girl of 14.

A. Certainly.

Q. Then at the age of 16 her power of consent and understanding is better than at 14?

A. Yes.

Q. So far as extra-marital relations are concerned are you in favour of giving further freedom to the girl up to 16?

A. To restrain her up to 16 will be a hardship on the girl.

Q. When you fix the age at 14 is it for the purpose of securing her freedom of consent or you want to protect her?

A. I want to protect the girl.

Q. If a girl has better and more mature understanding at 16 than at 14 and when you still insist on the age of 14, will that not be helping the stranger who wants to have connection with her rather than the girl?

A. No.

Q. If a girl of 14 consents to an intercourse with a stranger she becomes a disgrace to the family. For her protection and the protection of her family and future life would you not raise the age to 16 when her understanding is perfectly mature?

A. When she is 15 or 16 her understanding is mature and if she is a party to rape in extra-marital state you give her the opportunity for giving lies and concealing the act.

Q. Would you punish a girl widow who elopes before the age of 14?

A. She is sufficiently punished by the society.

Q. Would you punish her by law?

A. Society punishes her; she need not be punished twice by law.

Q. A girl is kidnapped at the age of 14 and after being one or two months with her kidnapper she consents to sexual intercourse would you like that the law should punish the kidnapper for kidnapping and for sexual intercourse?

A. Yes, he can be punished. There should be a law for that.

Q. Would you then raise the age of the girl up to 18?

A. Yes.

Q. In reply to question 17 you have said—"I have already said that after a woman attains puberty she is fit for cohabitation. Then the question being whether she had attained puberty or not age has nothing to do with rape except as a guidance based on the general experience that a girl attains her puberty between 13 and 14". Do you know what is the present age for kidnapping?

A. 16.

Q. Do you know that for Section 366-A the procuration age is 16?

A. Yes.

Q. May I know whether you speak about men or women also when you say in answer to question No. 12 that they have beaten all races in intelligence

A. I can say that Brahman women were mothers of Brahmans.

Q. You say that as a class, one can easily maintain that the Brahmans are superior to any other race in the world in force of intellect. Do you include males and females in the word superior?

A. Yes, I mean both.

Q. Do you know of any intellectual advancement or any intellectual achievement so far as Brahman women are concerned?

A. I have known several Brahman ladies who have renounced the world and who could hold discussion about philosophy with you or any man.

Q. Were those ladies married or unmarried?

A. Generally they are married.

Q. Can you name any one?

A. Yes. One is Mrs. R. V. Subramaniya Iyer.

Q. When was she married?

A. At the age of 5 or 6. She is a learned lady and can hold her own with anybody.

Q. When you say that women are not competent to vote on marriage, etc., may I take it that you include Brahman ladies also?

A. Yes.

Q. If Brahman ladies generally are not competent to vote on simple matters, is this an example of intellectual achievement?

A. It is not a simple matter. They have to understand all the problems before they can vote.

Q. You say that so far as puberty is concerned it is not the coming of menstruation that indicates puberty.

A. That is a symptom.

Q. How long after menstruation puberty is established?

A. After she has got 5 menstruations periodically.

Q. Do Shastras recognise any sort of distinction between Brahmans and non-Brahmans so far as chastity is concerned.

A. There are degrees of chastity. A Shudra girl can marry after puberty and select a bridegroom but anything of the sort is regarded a sin for the Brahmans.

Q. Does Manu not say that if a girl is not given away by her father after 3 years of her attaining puberty she can select her own husband?

A. Yes.

Q. Does that not apply to Brahmins also?

A. Yes, it applies to both. A girl is preferably married before puberty.

Q. I understand that so far as the question of marriage is concerned, it is common to Brahmins and non-Brahmins?

A. Yes, it is common.

Q. Then what is your warrant in saying that among Brahmins a girl is sure to go wrong if she is not married before puberty?

A. If they have attained an age at which they can make a selection, then the Brahmin idea of chastity is violated.

Q. Where is it laid down?

A. It is laid down in Upanishads.

Q. If it is laid down in Upanishads it is laid for all. Will you quote any authority where it is laid down for Brahmins only?

A. A Brahmin can go among the Shudra women and can find out a girl who has attained puberty but if he finds out among the Brahmins he can marry a girl who has not attained puberty.

Mr. Kanhaiya Lal : Do you think there is any physical degeneration among the Brahmins of Southern India?

A. No.

Q. Are they physically stronger than what they were 50 years ago?

A. I have had no experience but I can speak of the last 30 years. So far as my own sect is concerned I can say that when I was at college I was much stronger than what boys are now. It is attributable to the want of physical exercise which was being insisted upon in those days in the colleges.

Q. Then there has been a physical degeneration of Brahmins in the Madras Presidency during the last 30 years?

A. Yes.

Q. And you attribute that to the want of physical exercise only?

A. Yes.

Q. What is the percentage of infantile mortality among Brahmins?

A. I do not know.

Q. Would you be surprised if I tell you that 25 per cent. of the children born die in the first year?

A. I would not be surprised.

Q. Is early consummation or early maternity not one of the causes which contribute to it?

A. They have absolutely nothing to do.

Q. If medical opinion says that early consummation or early maternity is one of the causes will you reconsider your opinion?

A. I think they are wrong.

Q. Are you aware that there is a high percentage of maternal mortality too?

A. I am not aware.

Q. Are you aware that the weight of babies born of young mothers is much less than the normal weight of babies born of mature mothers?

A. No.

Q. Would you be surprised if I tell you that according to enquiries made in different places it was found that babies born of mothers of 14 or 15 years old were much less in weight than babies born of mature mothers?

A. I would not be surprised at all.

Q. Would you attribute this to causes other than early consummation and early maternity?

A. Weight has nothing to do with these.

Q. Do not early consummation and early maternity conduce to reduce the weight of babies?

A. They do not become weaker; they may be less in weight.

**Written Statement, dated the 10th August 1928, of Mr. K. R. SUNDARAM AYYAR AVL., B.A., Vakil, Ootacamund.**

1. No. In a hot country like India, girls ordinarily attain puberty between 13 and 14 years of age. Religious injunction or custom is such that parents' interference is found necessary for marriages, and girls are not given free hand to choose their husbands, as in Western countries.

2. The existing state of law is quite sufficient, for the reasons stated in (1) above.

3. Such crimes are very rare in my part of the country.

4. I should think that the amendment of 1925 had had no effect either in postponing the consummation of marriage, or in stimulating public opinion or in putting off marriage beyond 13. Even before 1925, parents and husbands who had the welfare of the girls at heart, used to postpone consummation of marriage, generally until the girl has had at least 5 monthly courses after attaining puberty and thus took care to see that the girl is healthy in other respects.

Orthodox Hindu public opinion, i.e., of persons who respect the injunctions laid down in Shastras, etc., was always for postponing consummation of marriages till the girls had had at least 6 monthly courses.

Marriages beyond 13 are very common now, because of the curse of *Vara Dakshina* which parents find it very difficult to meet and they cannot be said to be due to the amendment of 1925.

Public opinion must be stimulated by the opening of schools wherever possible and by the spread of education in vernaculars and in Sanskrit, paying very great attention to religious and moral instructions, so that boys and girls may be taught at a very early age to respect the injunctions in their respective religions. Ideas of sanitation and the advantages of owning a healthy physique and respect for manual labour should be drilled into their ears whenever possible in season and out of season. I don't think any amount of penalisation of the law on the subject would improve matters. It would be only in very rare and abnormal cases, the parents of the girls would complain to courts of marital rapes as they have the future welfare and happiness of their daughters always at heart.

5. Generally between 13 and 14 in the case of Brahmins and a year or two later in other castes.

6. (1) No. Only in exceptional cases of 2nd or 3rd marriages where the husbands, who are generally much older than the girls, seek this. But even in these exceptional cases, the parents of girls do not generally send the girls to their husbands' house before puberty, unless they are abjectly poor.

(2—3) Please see answer to question 4 above.

7. Not at all to my knowledge.

No. On the other hand, religious injunctions, if any, is to beget healthy children to perpetuate the family. Even in cases where the girl has to live in the husband's house before or soon after puberty, the presence of elders acts as a healthy check to such practice, in a wholesome Hindu joint family.

8. Yes. "Garbhadan" ceremony is always performed on the day of the consummation of marriage, just before the actual consummation. It is never done before puberty and generally performed after at least 5 monthly courses after puberty as noted above.

9. Generally so. Puberty generally occurs after sufficient maturity and is an indication that the girl gets a desire for sexual intercourse. Under proper control of her parents, she remains away from her husband and his residence for some months after puberty. There is a custom amongst Brahmins that the husband should not even see his wife during the interval of the date of puberty and of the date of consummation of marriage and this custom is invariably followed. As I have stated already, the consummation of marriage takes place generally only after 5 monthly courses after puberty, which means by that time the girl gets into the habit of regular monthly courses at an interval of 27 days or so. This in itself is considered to be a sign of health.

In my opinion consummation of marriage cannot be postponed long after puberty, especially after the period of 5 monthly courses after puberty as stated above. Generally such girls who have had consummation as indicated above beget children who cannot be said to be not healthy. If the health of such girls and their children are affected, it must be due to other causes, such as want of proper residence, admitting enough air and sunlight, want of proper nourishment and also due to habits acquired by bad company. Moreover these cases are mostly met with in towns and rarely in villages.

10. At the periods I have indicated above, which must be between 13 and 14 years of age. In my opinion, this period should not be postponed as it may then amount to playing with an explosive substance.

11. No such cases.

12. No. Generally only amongst Brahmins, marriages before puberty take place and this is imitated by the better class of non-Brahmins. Amongst other castes and communities, marriages take place a few years after puberty and never before; and with some of them, it is considered more honourable and respectable to give them in marriages as late as possible after puberty. Hence early consummation of marriages and maternity apply only to Brahmins in general, as a class. So far as intellect is concerned, their superiority over other castes of Hindus is an admitted fact. Of course, they are not wanting in robust physique, though some more improvement is desirable. Splendid specimens of humanity are not wanting amongst them, of whom any national militia may be proud.

13. No. The so-called English educated people who do not think for themselves, but who want to ape the Westerners in anything and everything, whether good or bad, may say that the Age of Consent must be raised. They seem not to bestow any thought over the manners and customs prevailing in the society in which they live.

14. Yes, an Indian woman generally feels most happy when her daughters live with their husbands, at the time mentioned in answer to question 4 above.

15. Such offences are rare, and so far as Hindus are concerned horoscopes are maintained. This, combined with proper medical opinion, can be easily verified. Moreover, registration of births has been made compulsory throughout India.

16. I don't think so. The proposed increase would make the doubt linger round 14 instead of the doubt lingering round 12 or 13 as the case may be now.

17. I don't think marital offences come to the court at all and hence no change is necessary.

18. No, please see answer to question 17 above.

19. I have no suggestions to offer.

20. Both are uncalled for interferences in matters social and religious, for the reason that with Hindus, marriage is a sacred institution and with them marriage connotes something nobler and higher than that prevailing in European countries and other religions. With Hindus, it is not a civil contract and cannot be dissolved.

21. Certainly I would rely on the progress of social reform by means of education and social propaganda for the reasons mentioned above—please see answer to question 4 above.

**Oral Evidence of Mr. K. R. SUNDARAM AYYAR, Vakil,  
Ootacamund.**

(Ootacamund, 11th November 1928.)

*Chairman:* How long have you been at the bar?

A. For 5 years.

Q. Have you been here or anywhere else?

A. Only here.

Q. Is your opinion representative of any particular class or of Brahmans generally of Southern India?

A. It is representative of Brahmans of Southern India generally and of Smartha Brahmans specially.

Q. Is there not much difference in the view point of Smartha Brahmans and other Brahmans in Southern India?

A. No.

Q. When do you think Brahman girls attain puberty generally?

A. Between 13 and 14.

Q. Do you think that in a number of cases the fact of puberty having been attained before marriage has to be concealed by some Brahmans?

A. Only recently I think such concealment is going on because of the difficulty of giving daughters in marriage.

Q. Is it customary here to keep girls after menstruation for five or six months before Garbhadan ceremony takes place?

A. Yes.

Q. Are there a large number of cases concealed?

A. I know of only five or six cases.

Q. Where they did not have pre-puberty marriage and the girls attained puberty and it had to be concealed.

A. Yes.

Q. The fact of consummation taking place after the first menses is not considered a violation of Shastric injunction?

A. I think not.

Q. I understand you are not in favour of this legislation as you consider it would be an interference with social custom?

A. Yes, social and religious.

Q. In purely social matters would you have no objection to interference by legislature?

A. I would not object but marriage in India, so far as Hindus are concerned, is social and religious.

Q. Is the question of education of a Brahman boy a social question or social and religious question?

A. It is purely a social question.

Q. Because you consider marriage a social and religious custom you object to legislation?

A. Yes.

Q. May I take it that in giving this opinion you have given no consideration to the medical point of view?

A. No.

Q. Would you or would you not modify your opinion if we assume that medical opinion was that any marriages below 16 are disastrous both to the girl and her progeny?

A. I think I should abide by the Shastric opinion.

Q. What is your opinion about girls becoming widows before 15. Is there much scandal among the Brahmans?

A. Unfortunately society has changed. Previously widows were given religious instructions.

Q. What period are you referring to when you say religious instructions were given?

A. 15 years back each home was considered to be a home of religious education.

Q. Is there greater scandal in the widows now?

A. There is some scandal.

Q. What exactly do you mean in answer to question 10 when you say "I consider that when a girl attains puberty she feels sexual intercourse necessary and it is a sin to keep her longer"?

A. When she completes 5 or 6 monthly courses she comes to the habit of regular course and to keep her longer than that period will be dangerous to morality.

Q. What is the longest period do you consider she should be kept?

A. Up to six monthly courses.

Q. Take the case of a girl of 11 as having attained puberty and if six monthly courses are allowed she is 11½. Would you make any exception?

A. My observation is that puberty is attained at 13.

Q. If there are such cases would you apply your rule?

A. Yes.

Q. In all these matters that you have stated I take it that this opinion is based on your own experience?

A. Yes.

Mrs. Nehru: Would you give preference to your own opinion against medical opinion?

A. I am not convinced that medical opinion is correct. There are very few doctors who are capable of giving such opinion. I have come across only one doctor whom I consider an authority on this question.

Q. Do you dispute the fact that the doctors consider marriage before a certain age injurious for the child and the mother or do you dispute the fact that they hold such an opinion?

A. I dispute the correctness of their opinion.

Q. Do you believe in Sushrut who is an ancient Ayurvedic authority?

A. Yes.

Q. What is the age he suggests for marriage?

A. I do not know.

Q. If you are told that he suggested 16 as the lowest age for marriage, will you change your opinion?

A. I think girls must have been very innocent when Sushrut prescribed 16 than they are now.

Q. Do you believe in what he says?

A. Yes.

Q. If what he says is true would you agree to practise it or not?

A. There are two aspects of the question one is mental and the other is physical.

Q. Even if the girls according to you have become mentally very wise do you think for the sake of their physical preservation it would be better to follow Sushrut?

A. When Sushrut prescribed that age girls did not know anything.

Q. Do you mean to say that there is physical difference also?

A. It is a question of mental difference.



**Q.** For a moment<sup>1</sup> leave aside the mental difference. For the sake of the physical growth of a girl and her progeny would you advise following Sushrut or not?

**A.** I think they go hand in hand.

**Q.** Have only the girls become mentally degenerate or are the parents also such?

**A.** It applies to both for the simple reason that they are not given religious training.

**Q.** If proper religious training is given to them would you then advise following Sushrut?

**A.** It depends on the standard of culture they attain after getting this religious training.

**Q.** What is the standard you would like them to attain before their marriage so as to enable them to remain unmarried up to 16?

**A.** It is with respect to one's own religion.

**Q.** Would you prescribe a certain book or Dharma Shastra or anything else which you would like them to learn before they remain unmarried till 16?

**A.** There is no prescribed book.

**Q.** Then what standard would you fix?

**A.** I think general knowledge of all the Puranas would help Hindus a good deal.

**Q.** If they have a general idea of Puranas would you let them remain unmarried up to the age of 16?

**A.** If the whole society is educated they will think for themselves.

**Q.** The whole society cannot be educated all at once and if you do not allow a girl to remain unmarried up to 16 and she is not allowed to decide for herself whether she should marry or not how can she think for herself. Would you give her that liberty?

**A.** I do not think she will be able to do it.

**Q.** At what age will she be able to do it?

**A.** It is a very difficult question to answer. So far as Hindus are concerned parents get them married.

**Mrs. Nehru:** What is your reason for saying that a girl after the attainment of puberty should not be left unmarried?

**A.** I apprehend a danger.

**Q.** Have you come across any girl whom you have found involved in any such danger?

**A.** No.

**Q.** Have you heard of any case in which a girl has gone wrong?

**A.** No.

**Q.** It is only a fear then in your mind that they may go wrong. If that fear is removed and if instances are given you of girls who were married after puberty and remained straight and virtuous would you then agree to keep them unmarried till a later age?

**A.** I must have personal experience of such a thing and then only I can say one way or the other.

**Q.** Is it a healthy thing to increase the number of widows in our community?

**A.** That does not increase the number of widows. Even if she is married at 20 she may become a widow.

**Q.** If she is married at 20 or 22 don't you save her from becoming a widow at 8 or 9 or 10? Don't you decrease the number of widows?

**A.** I don't think that would decrease the number of widows. If a girl is destined to be a widow she may become a widow at 19 even.

**Q.** In our country there are 3 lacks of widows under the age of 15. Do you consider it to be a healthy thing to have so many widows?

**A.** If not widows, we might have spinsters.

**Q.** In the case of unmarried girls there is always marriage before them but in the case of widows there is only darkness before them. Is not the danger more in their case?

**A.** Widows can marry if they please.

**Q.** You would have widow re-marriage then.

**A.** In the case of virgin widows I would prefer that.

**Q.** Is it according to the Shastric injunctions?

**A.** No.

**Q.** "Loksangrah" is one of the greatest rules of guidance for the regulation of our conduct. If Loksangrah wants, if society wants that early consummation of marriage should be stopped would you not agree to it?

**A.** Do you consider consummation between 13 and 14 to be early?

**Q.** Yes.

**A.** It is a purely relative thing. I do not consider it to be early at all.

**Q.** Does early consummation injuriously affect the physical growth of the girl and the child?

**A.** I don't think physically they are weak.

**Q.** Do they suffer intellectually?

**A.** They don't.

**Q.** You deny even this fact.

**A.** She does not suffer intellectually.

**Q.** Then from the point of view of "Loksangrah", you don't consider the creation of so many widows in our society as bad for society.

**A.** If not widows there will be spinsters.

**Q.** But, as I pointed out, spinsters can marry.

**A.** I don't think the number of widows will be decreased.

**Q.** In the course of your answer to question No. 1 you say religious injunction or custom is such that parents' interference is found necessary for marriages and girls are not given free hand to choose their husbands as in Western countries. Do you think consent of the girl and the boy for marriage is at all necessary?

**A.** Parents take interest in India and the boy and the girl are never consulted. Their consent is necessary.

**Q.** Do you think that it is enjoined by religion to take their consent before they are married?

**A.** No. At the age at which children are married in the society, I don't think they can give consent at all.

**Q.** Won't you be going against religion if you marry them at the age at which they cannot give consent, which can be given only after puberty generally?

**A.** When there is immemorial custom, I think, custom will prevail.

**Q.** Then you give preference to custom when it overrides Shastric injunction.

**A.** At times we have to do it.

**Q.** In this case you think you would do so.

**A.** Yes.

**Q.** Do you confine your remarks to Brahmins only or do they apply to non-Brahmins also?

**A.** Mostly to Brahmins.

**Q.** Do you think that non-Brahmins also are giving preference to custom?

**A.** I think generally they are doing it.

Q. Then you take your stand on custom alone.

A. We can't get over that. We have necessarily to follow custom. If I marry my daughter after she attains puberty, society will look down upon me. I have to respect the feelings of the society in which I live because I want their help.

Q. So far as you personally are concerned would you rather act according to the custom or to the religious injunction?

A. Custom of the society in which I live.

Q. Can you give me a criterion by which we may judge where to give preference to custom and where to religion?

A. My idea is this. We want the help of the society in which we live, in case of marriages or deaths. If I do not follow the principle enunciated by the society I may be put to inconvenience and difficulty.

Q. This is a matter of expediency. I am asking for principles.

A. The point is how am I to live in the society?

Q. If there is no fear of ex-communication on account of the late marriage amongst the Brahmins would you consider it right to marry the girls late? Would you then maintain that pre-puberty marriages should be given up by the Brahmins?

A. It is for them to decide.

Q. You are then speaking for your ownself.

A. Yes. My neighbour also must respect the feeling of the society in which he lives.

Q. May I ask if there are many cases of second or third marriages among your community?

A. Not many. I can put it at 10 to 15 per cent. Third marriages will be rarer still.

Mr. Mitra: Are you against legislations for marriage and the Age of Consent because you think the orthodox people will raise a hue and cry?

A. Not exactly. They are all indifferent to this sort of legislation. Our people are generally apathetic. They do not care whether a law is passed. Even if the law is passed fixing the age of marriage at 14 or higher there won't be much hue and cry amongst the people. They do not care for the amendments of law at all. They follow their old custom.

Q. You have not given any age for extra-marital cases. We generally want to protect our girls by fixing as high an age as possible and taking into consideration the fact that our girls are generally ignorant and live in-doors what do you think, should be the age for extra-marital cases?

A. 14 will be sufficient. At that age the consent of the girl would be good.

Q. Can she realize the consequences of social degradation that she brings if she will be out-casted? If a widow is taken away or an unmarried girl is taken away can she properly think about these things? In spite of herself can she protect herself?

A. In that way no age can protect them. I think 14 is sufficient.

Q. You say in answer to question No. 4 "orthodox Hindu public opinion was always for postponing consummation of marriages till the girls had had at least 6 monthly courses". Will you please refer us to the text?

A. I can't. It is mere custom.

Q. You say after the 14th year it is risky to keep the girls unmarried. You think it is because there is no occupation for the girls and if they are properly educated and there is some engagement for them there will be no risk.

A. I don't think there will be any risk then. In the present day of English education there is no provision for them. If they are given proper religious and moral instruction at home or even in public schools they would be saved a good deal.

Q. If there are arrangements for education and other things then we do not run any great risk in keeping them unmarried till a higher age.

A. Certainly not.

Q. The main reason is that they are vacant and have nothing else to think of. Is it not?

A. Yes.

Q. You say in the course of your answer to question 5, Brahmin girls attain puberty between 13 and 14 and other castes a year or two later. Can you give reasons for that?

A. The only thing I think is that Brahmin girls do no manual work at all. The other girls are more industrious and healthier and that is the reason why they get puberty later.

Q. In answer to question No. 7 you say "no". Do you think there are no Shastric injunctions regarding consummation of marriage?

A. There are no Shastric injunctions. Even in the performance of "Karma" attainment of puberty is not necessary. She can help the husband even if she has not attained puberty.

Q. In answer to question No. 9 you say, puberty generally occurs after sufficient maturity and is an indication that the girl gets a desire for sexual intercourse. Do you seriously maintain that menstruation comes only if there is a desire for intercourse? Does menstruation mean necessarily desire to have cohabitation? Do you seriously maintain that girls having no desire will not have any menses?

A. I should think so.

Q. And the girl-widows who have their monthly courses have no desire.

A. They have.

Q. In the course of your answer to question No. 12 you say, amongst other castes and communities, marriages take place a few years after puberty and never before; and with some of them, it is considered more honourable and respectable to give them in marriages as late as possible after puberty. Who are these "some"?

A. I mean the non-Brahmins.

Q. All non-Brahmins?

A. Yes.

Q. Do they consider it honourable to have marriages as late as possible?

A. Yes.

Q. In answer to question No. 14 you say, an Indian woman generally feels most happy when her daughters live with their husbands. Is it even before they attain puberty?

A. No, after the regular 5 or 6 monthly courses after puberty.

Q. From your answer to question No. 21 it seems that you would rely on the progress of social reform by means of education and social propaganda. But according to you have we reached the ideal state and is no progress necessary?

A. If the society feels then it must be raised. It is better to bring about the change by education and social propaganda.

Q. It is not the Shastras that stand in the way of social progress. It is the custom that stands in the way.

A. We require the help of the society in matters of marriage or death. If a man goes astray and goes against the social customs of any particular community in which he lives he will no longer be helped.

Q. So that we have to change our customs and the Shastras do not come in our way.

A. Unfortunately no reformer has come forward to inculcate a change in the social customs.

**Q.** If there is a reformer will you be for the changes?

**A.** Yes.

**Mr. Shah Niwaz:** Must you marry before puberty?

**A.** Yes.

**Q.** Why? You depend upon the Shastras.

**A.** But it is the custom now.

**Q.** According to custom you must marry before puberty. Do you rely on the Shastras?

**A.** I rely more on custom prevailing in the society in which I live.

**Q.** In case this custom is changed, will you personally welcome it?

**A.** If the society welcomes it I shall be one of them.

**Q.** What is your personal opinion about the Age of Consent?

**A.** I should think the present law is quite sufficient to protect the interests of girls.

**Q.** Then at present you don't want any social reforms.

**A.** Certainly. If social reform is intended to improve the culture of the society in which I live I should be the first man to welcome it.

**Q.** Supposing non-Brahmins think that it is far better to raise the Age of Consent both in marital and extra-marital cases, would you not think that the Brahmins should yield? If the majority of the people in India, both Hindus and Mohammadans do think that the age should be raised, will you not agree to it?

**A.** The society in which I live is mostly the Brahmin society, I want their help.

**Q.** If the Brahmins agree to it you will agree to it.

**A.** Yes.

**Q.** Then will you not care for the rest of India?

**A.** They can have their own wishes carried out to protect their own interests.

**Q.** As long as the Brahmins do not want that the Age of Consent should be raised you will not agree.

**A.** No.

**Q.** If the majority of the Indians think that we must raise the Age of Consent in the interests of the welfare of the country, would you not as a minority, as a right citizen and as a true Brahmin accept their view?

**A.** But unfortunately I require the help of the society in which I live. If my society does not accept the change then I will not accept it.

**Mr. Bhargava:** Supposing Dr. Long and many other persons in whom you have confidence gave the opinion that consummation of marriage is injurious before the age of 15 and supposing you believed their opinion, would you then agree that this age should be raised?

**A.** If the reasons are convincing I may agree.

**Q.** I say, supposing there was revelation and you believed that marriage before 16 is injurious, would you believe this immemorial custom or this revelation?

**A.** Certainly we will have to change the custom.

**Q.** You said that at present there was no great Smriticar who could codify the custom into law and that is your reason why you don't want to change. Parnasar was a great Smriticar but in the present age you said there was no man or institution which would make the law. Do you not think that the present Legislature has a right to enact laws for the society?

**A.** Unfortunately they do not feel the society.

**Q.** Supposing they felt the society?

**A.** You want a general law. Among Brahmins the custom is to marry before puberty and I have to abide by it.

**Q.** May I know whether you propose that the present Age of Consent should be retained as it is?

**A.** I should think so.

**Q.** As a lawyer may I know what are your reasons behind this? Is it not the idea of the present legislation that no man should be allowed to inflict an injury on a minor girl of 12 or 13? Why was the Age of Consent raised from 10 to 12?

**A.** The alleged reason is that the girl suffers and therefore they want to raise the age.

**Q.** As I put it to you and as you yourself agreed that if there was a revelation that the girl suffers if there is consummation before 16, would you not agree to this legislation?

**A.** In spite of that legislation I think the society will itself increase the age of marriage. If society came to understand the real consequences of that it will of itself raise the age.

**Q.** You say that puberty comes earlier in Brahmins than in non-Brahmins. Is it due to the very long habit spreading over generations? Is it not in the nature of a habit acquired through heredity?

**A.** May be, I can't say.

**Q.** Definitely, the non-Brahmin girls are stronger than the Brahmin girls.

**A.** Generally speaking they are, because they pay more attention to manual labour and naturally they are healthier.

**Q.** What are your reasons for keeping the age in extra-marital cases at 14? Supposing an unmarried girl or a widow of 14 or 15 elopes with a stranger and then after 2 months, say, she has intercourse with that stranger, will you be in favour of punishing that stranger or not for that sexual intercourse?

**A.** Certainly he must be punished.

**Q.** I understand you punish him because the girl is a victim and does not realise the consequences of the sexual intercourse.

**A.** Yes.

**Q.** And therefore you would like to raise the age to 18, say. If you raise the age to 18 you make the law more effective, you give more protection to girls.

**A.** What about 19 then?

**Q.** May I take it that you are in favour of an indefinite age? You want that a girl of 19 or over should also be protected.

**A.** I should think so.

**Q.** You think at no age in her life a woman is competent to give an intelligent consent to cohabitation with a stranger.

**A.** Even at 14 she can. If you fix the age at 18 what about 19? You take it for granted that after 18 she can give consent. Why not protect her at 19 also? It is an arbitrary age therefore.

**Q.** At 18, according to the law of majority, she becomes a major. She is expected to give consent to any act intelligently at that age. She can dispose of her property and she can enter into contracts of a most serious nature. You would therefore agree to raise the age from 14 to 18.

**A.** Yes.

**Q.** In the course of your answer to question No. 4 you say marriages beyond 13 are very common now. So amongst Brahmins the marriageable age has increased and a fairly large number of girls are married after 13.

**A.** Nearly 50 per cent. are married after 13. But they suppress that the girls have attained their puberty.

**Q.** But the society knows that the age of the girl is more than 13. I understand that in 50 per cent. of cases girls are more than 13 and it is generally known and the society tolerates that. And you say consummation does not take place till 5 or 6 months after puberty. What is your difficulty about fixing the age at 14 then?

**A.** When the society protects the girl why should you want a law? Because of necessity they are raising the age.

**Q.** Are there any marriages among the depressed classes or any other inhabitants of the Madras Presidency among whom marriages take place before 13?

**A.** I can't say.

**Q.** Is there any consummation before 13?

**A.** I don't know.

**Q.** If I tell you that in the rest of India these things take place and you also realise that if there is consummation at 12 or 13 the race is going to deteriorate, will you be in favour of making a general law for the whole of India?

**A.** If I am convinced of it I will be in favour of raising this age to at least 14.

**Q.** If there is any evil in the whole of India, are you in any case in favour of increasing the age to 14?

**A.** Yes.

## CALICUT.

**Written Statement, dated 3rd August 1928, of Mr. E. SANKARAN UNNI, Advocate, Daisy Lodge, Kallai, Calicut.**

1. The law as it stands is highly unsatisfactory, and there is a widespread demand for an advance.

2. The law relating to the Age of Consent cannot be retained in its present position. The age is not sufficiently high to save our girls from their husbands or strangers. There is a large and increasing body of opinion making for a change. It is felt that the future of the country depends on the prevention of early maternity and the evils consequent upon it.

3. Rape and abduction are far from common in this part of the country. The few cases that have come to my knowledge relate to mature women. I do not think that this is due to the raising of the age to 14, so far as extra-marital offences are concerned.

There is no dancing girl class in Malabar; but prostitution there is especially, in the large towns. I have no doubt that the amendment of the law in 1925 has had some effect. Much depends on police vigilance. But the police are not, in these matters, sufficiently alive to their duties and responsibilities.

To my mind, the measure that is most likely to prevent the evil is to raise the age to such a point that it should not be easy to conceal the offence.

4. (1) No. The 1925 amendment has not improved the position much. There is no real check on early consummation of marriage if the parties are inclined to do so. But it must be said that consummation of marriage among the educated classes does not always take place immediately the wife attains puberty. The boys may be away at college or the parents of the parties have some quarrel or other to settle before the bride is led to her new home. For all that, consummation may take place before the girl is 13, if she has attained puberty before that, as is often the case.

(2) The last advance has produced no evil and religion has not been found to be in danger. Public opinion is now in favour of a bolder step.

(3) There is no real effect on the marrying age. Marriage takes place as soon as a proper bridegroom is available and the opportunity for sexual intercourse before 13 is just as good as ever.

The sure remedy against all this is to make the Age of Consent the same as the minimum age for marriage. Base the latter on medical grounds and raise it to 16.

5. Between 12 and 14 years of age. The richer and the better nourished class of girls attain puberty earlier than their poorer sisters.

I think the difference is only as between the rich and the poor. No other distinction exists, so far as my observation goes.

6. (1) I am not aware of any class or community in Malabar which allows cohabitation before puberty.

(2) This is fairly common among the Brahmins, other than Nambudaris.

(3) This happens in communities which adopt compulsory early marriage. But among the Nairs and other non-Brahmin classes, marriage takes place pretty late, seldom before the girl is at least 16 years of age.

Cases of transgression of the law relating to the Age of Consent seldom come before the courts. Every body concerned is interested in concealing the offence. In up-country places, people do not even know of the existence of such a provision of law. It may be safely said that the law is being systematically violated.

7. I may at once say that there is no Smriti which enjoins cohabitation before puberty. On the other hand, all the texts bearing on this question prohibit it by necessary implication.



Almost all the Smritis lay down that cohabitation must take place during the menstrual period, i.e., within twelve days after the menstrual flow has ceased. They hold that it is the duty of the parties to seek each other's company on the night of the 4th day after the commencement of the menstrual flow. To avoid it is said to be a sin. Yagnavalkya says, गर्भाधानमृतौ

(The time for Garbhadhana is during the Ritu). So does Manu. ऋत्वाणगामो

स्यात्सदा निरतः सदा । (One should invariably approach one's wife during the menstrual period). Now, what is the exact significance of these injunctions? Do they mean that cohabitation should commence with the very first menstrual course; or do they simply lay down a general rule for having connection with one's wife. There is no doubt the orthodox opinion and practice support the former view. But the matter is not so very free from doubt. There is high authority against it.

Vishnu, one of the Smriti writers expresses himself thus:—"गर्भस्य स्पष्टता ज्ञाने निषेक कर्म" । The meaning of this text has been the subject of much learned controversy. Nanda Pandita interprets Garbha to mean Ritu or menstruation. But the expression is not used by any other writer in that sense. M. M. Sastry in his translation takes Garbha to mean the uterus. He points out that word is used in that sense in medical works and interprets the text as clear authority for the position that cohabitation should commence only when the uterus has acquired (स्पष्टता) full development.

This view is supported by two writers of the highest authority in Hindu Medicine. Vagbhata in his चर्याङ्ग हृदय (शरीरस्थान) clearly says,

“पूर्णषोडशवर्षाया पूर्णविंशेन संगता, शुद्धे शुभाशये मार्गे रक्ते  
शुक्ले ऽग्निले हृदि ।

वीर्यवन्तं सुतं मृते, ततो न्यूनाब्दयो पुनः रोम्यल्पायुरधन्यो वा गर्भो  
भवति नैव वा ॥

The passage means that a girl who has completed 16 years of age should mate with a man of twenty if a healthy child is to be born: if either is of a lower age, the child will die early or will be unhealthy, i.e., if the fetus develops at all.

There is a difference of opinion so far as the age of the male is concerned. One puts it at विंशेन (39) and another puts it as पञ्चविंशति (25).

षोडशवर्षायं पञ्चविंशतिवर्षः पुत्रार्थम् यतेत ।

(If one desires to have a son, one should, after completing 25 years of age cohabit with a wife who has completed 16 years of age.) The supreme authority of सुश्रुत is to the same effect:—

ऊनषोडशवर्षायामप्राप्तः पञ्चविंशतिं

यद्याधत्ते पुमान् गर्भं कुक्षिस्थः स विपद्यते ।

जातो वा न चिरंजीविज्जीवेद्वा दुर्बलेन्द्रियः

तस्मादत्यस्तबालायां गर्भाधानं न कारयेत् ॥

(Should a man below 25 cohabit with (impregnate) a girl below 16, the fetus will be destroyed in the womb itself; if born at all, the child will be short lived, or a mere weakling. Therefore, no one should (do Garbhadhana) impregnate a girl of too young an age.)

The voice of Hindu Medical Science is unequivocally against the orthodox view. Science and religion have never been in conflict with each other in India. The medical authorities would not have laid down a rule against early consummation of marriage if the Smritis were understood to be against it.

It is my view that there are no binding texts enjoining early consummation. For, there is no penalty imposed for non-performance of Garbhadhana at the first opportunity. The only sanction is the threat of hell for those who disobey the rule.

The question may be considered in the light of the texts relating to marriage also. I will not refer to them at length as they have more bearing on Mr. Sarda's Bill. Manu, while recommending the marriage of a girl who is not fit for matrimony (अप्राप्ता) if a bridegroom with exceptional qualifications is available, lays down that when a proper husband is not available a girl may remain unmarried till death. The next two verses allow her to choose her own husband three years after she attains puberty, if she is not given away by her father in the meanwhile (Manu, ch. IX, verses 88—92). As the question of Garbhadhana cannot arise before marriage, and marriage itself may take place three years after puberty, it is clear that there is no obligation to consummate the marriage directly the wife attains puberty.

The practice followed by the Nambudiris on this coast and the Kulin Brahmins in Bengal, supports this position. There is no compulsory prepuberty marriage among these classes. In fact women in large numbers die without ever obtaining the benefit of this संस्कार (marriage).

8. Yes, among Brahmins certainly. No such ceremony is performed among Nairs or other Hindus who are not governed by the Smritis. I do not know if any other class performs it.

It always coincides with consummation. The rite is described in these terms.

ऋतुस्नानादूर्ध्वं निषेकदिवसे मायं, सन्ध्यायाममोतायां पतिः शुचिः  
सुगन्धिः सुवेषः मन्त्रेण सूर्यार्ध्वं दत्त्वा पूर्वाभिमुखमुपविष्टायाः बध्वा  
दक्षिणहस्तेनोपस्थं स्पृशन् मन्त्रं जपेत्। पुनरपि उपस्थं स्पृशन् मन्त्रं  
जपेत्। ततो भार्यामुपेयात्।

(The wife having taken the purificatory bath after the menstrual flow has ceased, on the day fixed for consummation after the sun has set, let the husband properly dressed, offer worship to the sun; then, let him approach his wife who shall sit facing the east, and place his right hand on the wife's and utter the *mantra*. Let him repeat the process once again. And then let him have intercourse with his wife.)

I have had the advantage of discussing this subject with many of my Brahmin friends and they have told me that the ceremony usually takes place as laid down above and marital duties commence immediately. The only departure seems to be that instead of placing the hand on the genital, it is placed on the navel, apparently because the priest is also present to help the husband with the *mantra*.

9. I am not a medical man and my opinion on this question cannot be very valuable. Speaking as a lay man, I should say that an Indian girl who attains puberty between 12 and 14 years of age is not mature enough to justify consummation of marriage. Her physical appearance at the time is still that of an undeveloped girl. It also happens that in some cases menstruation does not recur for a long period.

We have a clear guidance in the opinion of our ancient authorities, Vagbhata and Susruta, whom I have already cited. A girl who has completed

16 years of age may be considered capable of discharging her marital functions without injury to herself or her progeny.

In the community to which I belong girls are seldom married before they are 16; and the results I have observed fortify me in this view.

10. Not before she is sixteen years of age.

11. I can give two instances. The parties are Brahmins. A friend of mine had a daughter. She was married when she was only 11. She attained puberty before completing 12 became pregnant when 13. The child was born before its time. Both mother and child died. She was a healthy girl, born of very rich and exceptionally healthy parents. There was efficient medical aid throughout. There was no other cause, so far as I know, for her death and the child's, except premature maternity.

The other instance is more or less of the same kind; consummation took place when the wife was 12; delivery when she was 13. The child was born all right, but lived only for a week. The mother was ill throughout. Nevertheless she became pregnant again; abortion was the result; pregnancy for the third time, followed by abortion. The parties left the neighbourhood soon afterwards. I don't know what has happened to them.

12. I have no doubt that early maternity is one of the causes for the high maternal and infantile mortality; the other potent causes being poverty, the barber midwife, and the insanitary condition in which the greater part of the population lives.

13. There has been a great quickening of the public conscience since 1925. The Bill under discussion and Mr. Sarda's Bill have given the question a great prominence and there is a keen desire to rid society of this corroding evil.

14. In communities which adopt early marriage women are generally on the side of early consummation. I do not think they know anything about the Age of Consent; and they do not care either.

15. It is difficult to say. There are very few prosecutions. To raise the Age of Consent to a point when it would not be easy to conceal the offence ought to be sufficient for all practical purposes.

16. I am in favour of raising the Age of Consent to 16. If that is done the margin of error could be greatly diminished.

17. Some difference has to be made between marital and extra-marital offences. In the latter, other consequences than injury to the woman will ensue. Illegitimacy of offspring, if one is born, caste difficulties and similar considerations have to be borne in mind. I would, therefore, award a heavier punishment for extra-marital than marital violation of the Age of Consent. The penalty as it is, is sufficiently severe so far as extra-marital offences are concerned. I am afraid public opinion would not support any proposal to make the punishment for marital offences heavier than what it is.

18. I would hold the trials in both cases *in Camera*. I am not in favour of making any other difference.

19. The existing provisions are quite sufficient. A prosecution for violating the law of the Age of Consent could be easily met in this country by producing proof of the date of birth. There is the horoscope, and births are registered in every village office.

20. Fixing a higher age for marriage is alone likely to be effective. If this is done the question of the age for marital offences would not arise. To raise the Age of Consent alone without raising the age of marriage exactly to the same extent would leave us just where we are.

So far as extra-marital cases are concerned the age may be the same as for marital cases provided the latter is sufficiently high.

I have already submitted that I am in favour of raising the age of marriage to 16. The Age of Consent for marital and extra-marital cases may also be 16. Public opinion would adopt the suggestion I have made.

21. Legislation is the best propaganda. Social reform is very slow work. The problem we have to solve demands immediate attention. Government cannot afford to ignore the high mortality, maternal and infantile, which is devastating our population. While many an other item in the programme of social reform may be left to time and educational progress, the health and life of the community are matters too vital to be treated in a similar fashion. Penal legislation and a rigorous enforcement of the law are the only effective remedies.

### Oral Evidence of E. SANKARAN UNNI, Esq., Advocate, Kallai, Calicut.

(Calicut, 14th November 1928.)

*Chairman:* Are you an Advocate practising here?

A. Yes.

Q. In your answer to question No. 9 you have concluded by saying that in your community girls are seldom married before they are 16. What are the results of these late marriages?

A. The results of these late marriages are that the couples are always healthier and better than those amongst whom marriages take place early.

Q. Your experience of Nair mothers and children is that they are more healthy and better altogether than the children of other classes amongst whom marriages take place early. Is it correct?

A. Yes.

Q. Had you any chance to know anything about the infant mortality here?

A. Not much.

Q. Perhaps you mean the Health Officer might be able to tell us.

A. Yes.

Q. I understand that the people here are divided into several classes which might be named Nambudri Brahmans, then the Nairs, the Thias and other untouchables and the Moplahs. Do you think this constitutes the four classes of people here?

A. This is a sort of division which will do for our purposes.

Q. Am I not to add the Aiyers also, i.e., the Patter Brahmans?

A. Yes. You are to add them also.

Q. Then may I take it that there are three classes of Brahmans, viz., Nambudaris, Patters and Embrandaries.

A. The Embrandaries are not Malabar Brahmans at all but they are South Canara Brahmans and they congregate here largely for the purpose of worshipping in temples.

Q. I understand that a Nambudari Brahman is looked upon as the most orthodox and typical of Brahman conservatism.

A. Yes.

Q. Do late marriages take place amongst these Nambudri Brahmans?

A. Yes.

Q. Do you think that the late marriage is due to any economic cause? What are the reasons in your opinion for late marriages among them?

A. There is no injunction in the Smriti that governs them to marry their girls before they attain puberty and I have given you the text relating to this matter.

(Witness hands over Sankara Smriti.)

Q. Does Sankara Smriti particularly bind these people?

A. The other Smritis also have great authority but Sankara Smriti embodies those rules so far as they are applicable to the community; but in

matters especially relating to marriages, inheritance and succession, this *Smriti* differs widely\* from the other *Smritis* embodying the Hindu Law. It has been laid down in *11 Madras Case* that the law that governs the Nambudaris is the Hindu Law as modified by the customs and manners of the people amongst whom they came to live, i.e., the Malabar customs.

Q. What then is the custom amongst the Nambudari Brahmans with regard to the marriageable age and consummation of marriage?

A. With regard to the marriageable age, there is really no restriction amongst the Nambudris. It is laid as a general proposition that a Nambudari ought to marry a girl who is either a Kanya (a ten-year girl) or a Rohini (a nin-year girl) or a Gonri (a eight-year girl) but not a Madhyama, that is a girl who has attained puberty. But the following verse says, "so far as Ramakshetra (Kerala) is concerned a Madhyama may be taken in marriage because it has been so laid down by Bhargava. She is not therefore unfit for marrying a Nambudari.

Q. Are there numerous sub-sections among the Nairs?

A. Yes: quite a number.

Q. How many do you think? .

A. I cannot give you the exact number. We are quite a divided people.

Q. Then I understand that excepting the Aiyers or the Pattars and the Moplahs child marriage as a practice does not very much exist. Is that correct?

A. Amongst the Non-Brahman Hindus and the Nambudaris the institution of child marriages does not practically exist--it is not a compulsory institution.

Q. In the case of Aiyers and the Moplahs does it exist?

A. I cannot speak with any authority about the Moplahs. Of course amongst the Aiyers it does exist. Pre-puberty marriages are the rule amongst them.

Q. In other words except in relation to these two sects the Aiyer Brahmans and perhaps the Moplahs of whom you have so little knowledge, you don't think the problem of child marriage exists?

A. It does not exist. Post-puberty marriage is looked down upon by the Brahmans and Moplahs but not by the Nambudari Brahmans and Non-Brahman Hindus.

Q. Now I think in your answer to question No. 20 you want a higher age for marriage to be fixed and you think that would be effective. What is the age you want to put?

A. 16.

Q. And for the Age of Consent?

A. Same age as marriage.

Q. Don't you believe in merely raising the Age of Consent\* to 16, for instance, or say anywhere beyond 14?

A. I don't believe in it for this reason. When a marriage takes place and the bride goes to live in the family, there is nothing to prevent consummation taking place. Of course, it may be said that in a large joint undivided Hindu family opportunities are not so easily obtained for consummation of marriages without the knowledge of the people in the family. Amongst the Aiyer Brahmans here in Malabar the girls do not go to their new homes directly after their marriage. They remain in their fathers' homes and they join their husbands only after they attain puberty. The consummation of marriage is always attended with public ceremonies so much so that it will be quite sufficient to raise the Age of Consent without touching the age of marriage at all. There is, I believe, a good deal in that position so far as the Aiyar Brahmans are concerned but I am quite sure these considerations will not apply to other communities. In this presidency you have only two millions Brahmans out of a population of 42 millions. So in the wider

interest of these 40 millions it is necessary to raise the Age of Consent and the age of marriage together so that we may be on the safe side.

Q. Can you devise any method by which it may be permissible to have marriages at any time before puberty or otherwise and yet effectually put off the period of consummation?

A. So far as I have been able to see it is not easy to devise a method. Therefore mere raising of the Age of Consent by itself would not give you any chance at all. Even in European countries and in America mere arising the Age of Consent has not been a great success.

Q. Supposing you raise the Age of Consent somewhere near 16, don't you think that there would be a very good evidence coming in the case of girls giving birth to a child between 13 and 16?

A. That is quite possible, but there is always a percentage of cases where there will be no evidence forthcoming.

Q. Are there any classes of prostitutes here in considerable numbers?

A. I should not say that there is a class. Prostitutes may be drawn from any class.

Q. Are there professional prostitutes in considerable numbers?

A. Yes: a good number. Here, in Calicut, they line the public roads leading to the beach.

Q. I was told that they were almost non-existent here.

A. No, no.

Q. Are there prostitutes of all castes?

A. I believe so.

Q. What do you think of the girls in which this profession is going on? Is there any limit of age amongst them?

A. I have very little idea, but I believe the girls are drawn as early as possible and are prepared for the life they have to lead.

Q. Are there any breaches of law as it at present exists?

A. I am perfectly sure that there are breaches of the law but sufficient attention is not paid by anybody to this matter. The police have got to look to these matters but they seldom do it. I suggest that the age should be raised to such a point that by merely looking at the girl one should be able to say whether she is able to carry on the trade or not.

Q. Do you think that the statutory law of 13 for the Age of Consent in marital relations is broken in the class of Aiyers, i.e., girls that have consummation of marriage before 13 is complete?

A. I doubt very much whether the existence of this provision is sufficiently known and even if it were known I do not believe that would have really prevent them from breaking the law, because mothers are generally anxious to have the consummation as early as possible except where the girl is sickly.

Q. Then do you think that the present fact of consummation before 13 goes on apace irrespective of the happy ignorance of the law?

A. Yes. There is nothing preventing people from doing this.

Dr. Bradon: In your answer to question No. 11, you have given two instances where on account of premature maternity the mothers died and also the children. Would you mind letting us know whether these cases happened recently, say, within the last five or six years?

A. The first instance took place about six years ago and the other happened fairly recently.

Q. Do you know of any other cases like that?

A. No. It hasn't come to my notice.

Q. You said just now that there are 40 millions of people excluding the Brahmans in this Presidency. What percentage would you put for early marriages in these 40 millions of people?

A. I cannot say exactly. Although there is no compulsory early marriage amongst the other communities the poorer classes of people resort to early marriage to add a worker to the family and thereby increase its income. Early marriages amongst the poorer classes are brought about by economic reasons.

Q. We are told that in almost all the cases the mother takes care of the girl till she reaches the ripe age. Is it a fact?

A. I believe so.

Mrs. Nehru: Can you tell us whether this practice of late marriages has been of recent growth or has it been practised from early times amongst the Nairs and Nambudaris?

A. The practice has existed from very early times.

Q. In your answer to question No. 2 you have said that there is a large and increasing body of opinion for raising the Age of Consent. I want to know whether it is the opinion of men only or of women also for raising the age?

A. This is a very difficult question to answer because I do not exactly know whether the majority of our women take sufficient interest in a matter like this.

Q. Do you think that there are a larger number of men who take interest in these questions than women?

A. I think there is a large number of women also who take interest in these matters.

Q. But cannot you tell me whether there is a large number of women whose minds are disturbed by these questions?

A. The women are more likely to know the consequences of early consummation of marriages of their daughters and they know the troubles of early marriage and so the women are expected to know the matter better than men.

Q. Is prostitution existing here?

A. It exists in a more or less organised form in the towns but not so in the villages.

Q. Are there no recognised brothels here?

A. I don't know if the police take note of them, but they are along the public roads.

Q. In your answer to question No. 6, sub-heading (3) you say that early consummation takes place in communities which adopt compulsory early marriages. What are those communities?

A. The Brahman community.

Mr. Mian Muhammad Shah Nawaz: Is the number of consummation of early marriages so large in this part of the country as to need a legislation?

A. Yes.

Q. You have told something about the religious injunction. Could you not tell me whether there is any religious injunction which enjoins pre-puberty marriages?

A. So far as the Smritis are concerned, we have got to accept it as a fact that they enjoin early marriage, i.e., pre-puberty marriage. But pre-puberty marriage as a compulsory institution prevails amongst the Aiyer Brahmans and not amongst other communities.

Q. I want to know your opinion you being a lawyer whether pre-puberty marriage is optional or mandatory.

A. I don't find any penalty attached to the non-performance of marriage before puberty. By penalty I mean that a man may either be sent to jail or fined for non-performance of it. I find neither of these there. I should therefore think as a general proposition that it is not mandatory. They are merely recommendatory.

**Q.** Do boys of 18 or 19 years and girls of 14 and 15 desire to have children?

**A.** I do not think so.

**Q.** Having regard to the economic conditions of life in this country, do young boys of 18 and 20 and girls of 15 and 16 desire to have a child?

**A.** No.

**Q.** Do girls of 16 years of age or somewhere 15 desire to have sexual intercourse with their husbands?

**A.** It is a difficult question for me to answer.

**Q.** Some Brahman witnesses came forward and said that girls of 15 and 16 have intense desire to have a child. Is that correct?

**A.** So far as the community to which I belong is concerned, and I know of a good deal of the Brahman community also, I don't believe the statement is correct.

**Q.** If a girl is not married till 16, is her craving so great that there is a possibility of her going wrong?

**A.** In the community to which I belong no girl is married before she is 16 and hardly a case of a girl going wrong has come to my notice.

**Q.** Are births and deaths registered in this part of the country?

**A.** I believe the municipality here keeps a birth and death register and in villages the Adhikari registers births and deaths in his office systematically. Adhikari is the last link in the revenue administration.

**Q.** Have you got to go and make a report to him?

**A.** Usually the village peon goes round collecting information and it is registered in the books of the village officer but if you make a compulsory rule that everybody should report a birth as soon as it takes place, that will be quite sufficient.

**Q.** Would you make a law in that respect?

**A.** A slight improvement is necessary; you have already got the machinery.

**Q.** Do women favour the raising of the Age of Consent or fixing the minimum age of marriage?

**A.** My impression is that the mere thoughtful among them would rather like to have a marriageable age fixed. They would like to have their daughters married a little late. The general impression is that it would not be very inconvenient if you put it at 15 or 16.

**Q.** What about the Age of Consent?

**A.** Both these go together. With regard to extra-marital cases I would make it 18 because nobody has a right to complain about it.

**Q.** Would you like to have the age of marriage at 14 and the Age of Consent at 16?

**A.** If I cannot have anything better than that I would accept it.

**Q.** But you would prefer 16 for marriage and 16 as Age of Consent?

**A.** Yes.

**Mr. Bhargava:** Is it your opinion that so far as the law relating to the Age of Consent is concerned, it is the concern of the State; it is not a social question at all?

**A.** It is certainly a matter of paramount importance for the State to consider; it should not be left to individual or social opinion.

**Q.** Is it your opinion that we should not care for the opposition of orthodox or other people if the interests of the rest require that there should be an increase?

**A.** Exactly.

**Q.** If a person comes forward and says that he has got very conscientious objection to the adoption of a particular course, would the State not be justified in granting an exemption?



A. Marriage is not wholly a private concern; it concerns the State also.

Q. So far as marriage is concerned has State got the right of interference?

A. Yes.

Q. And it relates to consummation also?

A. Certainly.

Q. What do you think of a law like this? \*Marriages should be prohibited up to a certain age as you suggest and then in the case of certain persons who have conscientious objection there may be exemptions. If an exemption is granted a bond should be taken from that person to the effect that he will be responsible if the consummation is brought about before a certain age and he will pay to the State so much if there is a violation.

A. Apart from the fact that it is cumbrous, to provide such wide and open power to claim exemptions, will make the law nugatory.

Q. Do you realise that there will be very few cases in which people will care to apply for exemptions?

A. I do not know. But if only a few people are expected to apply for exemptions we need not take them into account.

Q. According to you it may be 2 per cent. or 3 per cent.

A. If the percentage is so very small they can be ignored but if the percentage is very large we should not allow such a thing to happen.

Q. In either case you are of opinion that exemption on any conscientious ground should not be allowed?

A. No.

Q. If a marriageable age is fixed there are certain classes of people who certainly believe that they will be violating their religion if they do not marry at a certain age. If in those cases exemption is allowed and a bond is taken there will be no harm because very few people will, in practice, take advantage of the exemption?

A. My opinion is that it is not necessary to have any such arrangement at all. The consummation could be performed, bond or no bond. Instead of providing for such a large volume of exemption the whole thing may be left alone.

Q. You have said there are very few prosecutions and in the case of exemptions also the danger is that it will be very difficult to find out cases of this nature. May I know if you could make any specific recommendation in respect of bringing these cases to light?

A. The only suggestion I can make is that the age should be raised to such a point that if consummation below that point take place it could be easily detected.

Q. If you raise the age to 16 even then the first objection, *viz.*, reluctance of the parents of the girl to come forward would remain the same even if it is 13, 14 or 15, because after all the girl is affected. How should we know that a particular provision of the law has been violated?

A. I would not make any special provision except the provision that exists for the violation of all laws.

Q. Would you like that power of complaint should be vested in all persons?

A. Complaint may be made by anybody.

Q. Then so far as the question of reporting such cases is concerned would you lay the obligation on the members of the general public that as soon as a person becomes aware of an offence having been committed he should report it?

A. I think there is a general obligation on all citizens to report the commission of crime directly they come to know of it.

Q. There are special sections of the Indian Penal Code in regard to special offences and there is provision that every person may lay the information before a competent tribunal and not before the police.

A. They may report the matter to a competent authority.

Q. Would you like that provision may be made applicable to this offence also?

A. Yes.

Q. May I know if you are in favour of instituting a system of sanctions so that only proper cases may be brought before the courts?

A. I should very much like to see that done in every case.

Q. So you would like that a system of sanctions may be instituted in this matter?

A. Yes. A judicial officer of the standing of District Munsif may be informed of it and if he thinks there is occasion for prosecution to be launched under this section prosecution may be launched. I would take the power out of the ordinary magistrate and give it to a civil judicial officer.

Q. You think an executive officer should not be entrusted with this task but it should be left in the hands of a judicial officer?

A. Yes.

Q. I understand that you are against the offence being made cognisable?

A. I would not like the police to interfere because every marriage occasion will then become an occasion for the police to interfere.

Q. As regards punishment—you would like to leave it as it is?

A. Yes, I am satisfied with it. Already the punishment is high enough.

Q. Then are you in favour of making it more lenient?

A. No.

Q. Would you make the case compoundable when the age of the girl is above 14?

A. It is a matter of public concern, and this should not be allowed.

Q. If the age of the girl is above 14 in some cases it may happen that when the husband comes out of jail he will not be reconciled with his wife and may marry again. In the interests of the society would not you like that when the girl is above 14 the offence may be made compoundable with the sanction of the court?

A. No.

Q. What should be the guiding principles?

A. I should not like any kind of compounding in matters like this which are so vital.

Q. We are trying to legislate because it is too vital a question for the communities.

A. If we allow compounding there will be compounding in every case that is brought up.

Q. I take it that in your view if it is made compoundable it will be regarded in the public mind as an offence which is attended with no consequence?

A. Yes.

Q. If the marriage age is raised to 16 don't you think there will be a great dissatisfaction among the orthodox people?

A. Orthodox opinion is opposed to any kind of progress and you may expect some sort of opposition but the opposition will spend itself in a few public meetings.

Q. If people cannot make a riot is it any reason such dissatisfaction as would be caused should be ignored?

A. You have sometimes to preserve the community against itself. If a community is determined to ruin itself by following a course then it is part of the business of the State to see that it is not allowed to go that way.

Q. May I take it that in your opinion this text relating to pre-puberty marriages taken along with authorities on medical science appears to be interpolations?

A. I should not express any opinion at all, I would rather try to reconcile the two.

Q. In the Smriti that contains this injunction is there anything to indicate that the *ritu* must be the occasion for consummation of marriage?

A. Except one text which I pointed out, there is no binding authority. So far as I can see *Garbhadan* ceremony need not take place directly *ritu* comes on.

Q. In your opinion the texts relating to marriage and consummation of marriage are reconcilable with the medical authority?

A. They may be reconciled by the exercise of a little ingenuity, but if they are not so reconcilable, medical opinion should have the preference.

### Oral Evidence of Mr. MOHAMED SCHAMNAD, M.L.C., Bangalore.

(Calicut, 14th November 1928.)

Chairman: Are you a member of the Legislative Council?

A. Yes, formerly I was a member of the Legislative Assembly.

Q. Are you a Moplah yourself?

A. Yes, I am Sunni.

Q. We were told during the last 2 days that even among the Moplahs, although they are Mohamedans there are many cases of child marriages. Is that correct?

A. There may be some because there is no restriction in our religion.

Q. What percentage of Moplahs you think marry late; would it be 50 per cent.?

A. More than 50 per cent. marry at a late age.

Q. Do you think 30 per cent. or 40 per cent. marry at an early age?

A. About 25 per cent. or 30 per cent. or even less marry at an early age, i.e., below 13.

Q. Do you think that there are any cases where consummation of marriage takes place before a girl is completely 13?

A. There may be some cases but they are very few.

Q. I believe consummation takes place soon after puberty.

A. Yes, but according to religion Nikah need not be followed by marriage. I know of many cases in which when the religious ceremony is over the boy and girl do not see each other for a period. When marriage takes place they are brought together.

Q. Are they not brought together before puberty?

A. Generally it is after puberty, though there may be some cases before puberty.

Q. Is there any ceremony performed when the girl goes to the husband's house?

A. Yes, when the Nikah takes place very early. In the case of my child Nikah was performed 2 years ago but marriage ceremony took place only now.

Q. What do you call "marriage ceremony"?

A. Nikah is called Kanat.

Q. When you say nuptial takes place you mean they are brought together?

A. Yes.

Q. Is there any ceremony when they are brought together?

A. Yes, that is called Mangalam.

Q. You do not think there is any Quoranic injunction about marriage age or about the Age of Consent?

A. No.

Q. With regard to these—Age of Consent Law and the law fixing the minimum age of marriage—do you say you would not fix either?

A. Personally I have no objection but I think it is not advisable to legislate either way.

Q. What marriage age would you recommend?

A. If you fix a marriage age it should be 14 for girls and 18 for boys. After the ceremonial marriage it is very difficult to find out when consummation takes place; so it is very difficult to legislate for Age of Consent, it will be dangerous.

Q. Why is it dangerous?

A. Because that will give freedom to the police.

Q. You think once a marriage takes place there should be no interference?

A. No.

Q. Would you like to have a law for marriage?

A. Yes.

Q. You say even that is not advisable?

A. Yes.

Q. Why it is not advisable?

A. It may create ill-feeling and unrest.

Dr. Beadon: Would you be able to say with regard to those marriages which take place early whether the girls suffer in any way because statistics show that there is a large infant mortality among those who have early marriages? Do you find the same here?

A. Yes.

Q. Girl-mothers of 13, 14 or 15 suffer more and their children are likely to suffer more.

A. Yes.

Q. With regard to other women who marry after 16; do you think they are all right?

A. There may be other conditions but they are comparatively better off.

Q. What other conditions do you think weaken the mother or her progeny?

A. The way in which she passes the period of pregnancy.

Q. If early consummation affect a very large part of the community—not only Moplahs but others also and if the results are disastrous, as you say they are, would you still advise the Government to endure that evil and let the people suffer rather than legislate?

A. Now there is much difference on account of spread of education. Formerly almost all cases among the Brahmans were of child marriages.

Q. Even now there are a very large number of child marriages among the Brahmanas?

A. Among the educated classes there are few but amongst the orthodox almost all are child marriages. I think education will put an end to this.

Mrs. Brijlal Nehru: May I take it that you are against all social legislation?

A. I am personally not against it but I think it is not advisable as a public policy.

Q. Considering the great evils resulting from early marriages do you not personally consider it advisable to legislate?

A. But I think generally Brahmans and some other orthodox Mohamedans think it is an interference with religion.

Q. But really speaking there is no religious interference.

A. That is what I think and believe; religion has not fixed any age.

Q. Do you object only to the fixing of a marriage age or also to raising the Age of Consent?

A. I am not for consent law at all; I am for marriage law.

Q. Would you take steps to make the Age of Consent Law effective?

A. That would be dangerous.

Q. But it exists even now and is 13 within marital relations.

A. It is a dead letter.

Q. Do you consider it dangerous for girls or for their husbands?

A. But the girl will have to give evidence and girls would not like to go to court and see their husbands harassed.

Q. You know there are safeguards provided—the offence is not cognizable when the girl is above 12, investigation can only be carried by an officer not below the rank of Inspector and it is triable by only the District Magistrate and there have been some cases reported to the magistrate and tried.

A. The cases are reported not by the wife or wife's relations or the boy's relations. Sometimes it may be due to enmity or misunderstanding.

Q. There have been cases where there was no enmity or misunderstanding but because the girl suffered?

A. There may be such cases.

Q. In order to stop such cases don't you think some age should be fixed?

A. I am in favour of marriage legislation. I would not have the age of marriage at 13 and the Age of Consent at 16. I am in favour of marriage legislation being fixed at the same age.

Q. For extra-marital cases would you raise the age to 16 or 18?

A. I have no objection to raise the extra-marital age.

Mr. Thakurdas Bhargava: Supposing for certain reasons we are not able to have a marriage law—Would you then agree to have a consent law?

A. No.

Q. When this question was put in the Legislative Assembly did you vote in favour of this law?

A. I may have given it but there was no other proposal to raise to 14 or 16.

Q. Did you vote in favour of 14 or 16 then?

A. I cannot remember; I may have voted for raising the age.

Q. Supposing police interference is eliminated?

A. My view is cases will never come to light because neither the wife nor her relations will report unless there is some misunderstanding.

Q. Is not provision of this sort on the statute in many cases a great deterrent by itself?

A. In spite of this there have been many cases of cohabitation.

Q. But will there not be some cases which will not occur because provision exists?

A. I do not think so because this is done in privacy and who is to give information.

Q. Sometimes a girl menstruates at the age of 12. Do you realise that after menstruation also there should be some period, say, one or two years before a girl can be allowed to go to her husband?

A. Yes.

Q. How much period do you think should elapse?

A. At least 2 years.

Q. You say there have been many cases among the Moplahs and there may be a good number of cases in India in which girl-mothers suffer a great deal. Is it not advisable in the circumstances that the State should interfere in this matter?

A. It would not be practicable.

Q. You are in favour of having a law but you want to make it practicable.

A. If you make it practicable it will be a great hardship to the people.

Q. Supposing it is so arranged that all such hardship is avoided?

A. But I cannot imagine such a contingency.

Mr. Shah Nawaz: What would be the percentage of orthodox Mohamedans who would object to the fixing of a minimum age for marriage?

A. More than 50 per cent.

Q. And among the Hindus?

A. About the same. Mohamedans are generally uneducated and marriages are in the hands of Maulvis.

Q. Would the educated people object to it?

A. I do not think so.

Q. Don't you think if we make a law the majority of the people will acquiesce in it?

A. They may object to it for some time but they will acquiesce in it.

Q. Will they not do any *hijrat* or rioting?

A. No.

Q. Do Maulvis have a great influence in this part of the country?

A. Yes, but recently a society has been started to break down the influence of Maulvis.

Q. Are Maulvis uneducated?

A. They know Arabic and Quoran but they are not educated in the modern sense.

Q. Do you know that early consummation is penalised according to Quoran?

A. Yes.

Q. Where will be the objection if the Age of Consent is raised to 16?

A. I do not know about the Shafai.

Q. Does not morality suffer?

A. No.

Q. Would you rather like to raise the Age of Consent?

A. We would not like to make it an offence; if it is made an offence it will interfere with religion.

Q. You know that according to Mohamedan Law it is far better to have consent of the girl.

A. Yes.

Q. When do you think she is able to give consent?

A. When she attains puberty she is able to give consent.

Q. When is she able to understand consequences?

A. After attaining puberty she can understand the consequence.

Q. Can you cite any clause that after the attainment of puberty she can sell or purchase property?

A. That is the age of majority fixed by law but for marriage she is quite fit.

*Mr. S. C. Mitra:* You must have heard of progressive legislation in Mohamadan countries like Turkey and Afghanistan and you certainly approve of such legislation?

A. Personally I would like such laws but I would not force it upon the public. In Turkey they have gone beyond the limit.

Q. May I take it that you do not approve of progressive legislation?

A. Not progressive but sometimes Turkey is not called progressive.

Q. You are speaking of the Hindus and of the Brahmans. Do you know what percentage Brahmans are of the whole Hindu community?

A. In this part there is a very small percentage.

Q. Taking the whole of Malabar you think there will be not much opposition? In fact there is no early marriage among the non-Brahmans and the proportion of Brahmans is very small?

A. There will be opposition but not much.

Q. Can you tell us the percentage of Brahmans?

A. In the Presidency the number of Brahmans is 3½ millions. Amongst Brahmans also there are classes among whom early marriages do not take place.

Q. So far as this part of the country is concerned fixing a higher age for marriage or raising the Age of Consent really does not affect the vast majority of the people and so there will be no objection?

A. A few people may object but the majority of the people would not.

Q. As regards the Mohomedans you think generally all those people object only if they are made to object by those Mullahs who are not sufficiently educated?

A. If Mullahs or Maulvis do not create any agitation people generally will acquiesce.

Q. And you think there should be the law of the Age of Consent also?

A. Yes.

Q. Personally you think there will be no objection to the fixing of the age of marriage?

A. No.

Q. As regards extra-marital cases cannot there be any objection if the age is raised to 18?

A. No, it may even be raised to 20.

*Mr. Kadri:* Do you think girls will like to be married later in life?

A. Girls may like to marry later but their mothers will like them to marry early on account of their anxiety to see them settled early.

Q. Is there any female education among Moplahs?

A. Very little. Recently a girl passed the School Final and she is an exception.

Q. Are there both Shias and Sunnies amongst Moplahs?

A. The majority of the Moplahs are Sunnies. There is however a small number of Shias amongst them.

Q. Do they intermarry?

A. Yes.

Q. Are their relations friendly?

A. Yes.

Q. Is there Purdah amongst Moplahs?

A. Among the poorer classes there is no Purdah; but among the richer classes there is.

Q. Which part of the country is inhabited mostly by Moplahs?

A. Malabar and South Kanara Districts of the Madras Presidency.

Q. Have you got many elementary schools in this place? Have you got girls' schools?

A. There are very few girls' schools. Three schools were started this year, but one had to be closed for want of girls.

Q. Were the places where these schools were started mainly inhabited by Moplahs?

A. These schools are generally started only in centres where the particular population is highest. The schools I referred to were started in Moplah centres.

Q. Are girls taught at home by their elders?

A. Yes.

Q. What script?

A. Everybody is taught to read and write Arabic. Richer people teach their girls Malayalam also.

Q. Are all the women literate?

A. Almost all. Generally their knowledge is confined to reading only. Almost every girl can read the Quran. All of them use the Arabic characters for writing Malayalam also.

Q. Do they read any other books besides the Quran?

A. Yes; there are many books which have been translated into Malayalam and the girls read them.

Q. Do girls take advantage of these books?

A. Yes; if these books are written in Arabic.

Q. Do people in this part of the country know the existence of the Age of Consent Law?

A. The educated people know.

Q. Have you had any occasion to talk with them on the subject?

A. Especially now the educated people are talking about the subject.

Q. Are there many cases of kidnapping amongst your community?

A. There are very few cases.

Q. Are girls brought from other parts of the country for sale here?

A. No.

Q. Amongst Moplahs are there plenty of girls?

A. No; there is a dearth of girls.

Q. Are there many rape cases?

A. There may be some cases; but their number is not much.

Mrs. Nehru: You said that girls were not very much educated. What about the boys?

A. Amongst them also education is not much advanced.

Q. What would be the percentage of educated boys in your community?

A. Out of a population of 1½ million Moplahs there are only a dozen graduates.

Q. Are there many cases of child marriages amongst Moplahs?

A. There are some cases.

Q. Have you seen any cases in which any harm has occurred to the mother or the progeny as a result of early motherhood?

A. We cannot know if the injury is due to early motherhood. It may be due to some other causes.



**Oral Evidence of Khan Saheb T. M. MOIDOO, M.L.C., President,  
Malabar District Board, Calicut.**

(Calicut, 14th November 1928.)

*Chairman:* How long have you been Chairman of the District Board?

*A.* For the last 2½ years.

*Q.* May I take it that to some extent you know the conditions in the villages in the interior of Malabar?

*A.* I have gone to the villages in connection with my work as President of the District Board. I am also the representative of the Muhammadans in Malabar in the Legislative Council. I was their representative in the Council in the last term also.

*Q.* Is the population in the villages the same or similar in constitution as it is here in Calicut?

*A.* No; there are certain Taluks which have got a predominantly Muhammadan population, for instance the Taluks of Ernad and Walluvanad.

*Q.* What do you mean by the term Moplah?

*A.* Moplah is the name given by the non-Muslims to all Muslims in Malabar. The term is not restricted to any particular class of Muhammadans. Even our friend, Mr. Kadri, would be called a Moplah by non-Muslims in this part of the country. But amongst ourselves we do not recognise the term as applying to us.

*Q.* Do you think that there is a large number of child marriages amongst Moplahs?

*A.* Such cases are very rare.

*Q.* What is the marriageable age of girls in your community?

*A.* It is usually after 13 and 14.

*Q.* Do you mean that it is the age at which consummation also takes place?

*A.* Yes.

*Q.* Do you think that in your community there are breaches of the present law of the age of consent, the statutory age being 13?

*A.* Consummation generally takes place after 13, but some cases do occur under 13 though they are not reported.

*Q.* Is it a large number?

*A.* No; it is a very small number.

*Q.* With regard to these girls who become mothers before 14 or 15 complete, do you think there are evil effects?

*A.* From my experience I find it is so.

*Q.* Is it only the mother that is affected, or do the children also suffer?

*A.* Both the mother and the child suffer. The whole family will get anxious if a girl conceives at the age of 14 or 15. In such cases there is always some trouble or other at delivery, and the children generally do not survive.

*Q.* Do the mothers suffer afterwards?

*A.* In some cases they do.

*Q.* Have you had any chance for comparing these girls with girls who become mothers at a later age say 18 or 20?

*A.* Yes; there is a vast difference between the two cases. The girls who become mothers at a later age are much healthier.

*Q.* Is it customary amongst Moplahs to resort to English medical people, or do they not have any medical help at all?

*A.* They generally take Ayurvedic medicines.

*Q.* Are there many Ayurvedic doctors here?

A. Malabar is noted for its Ayurvedic doctors; each village has got at least a good doctor. There are many eminent doctors in Malabar.

Q. Are there cases of consumption amongst the Moplahs?

A. Yes; it is found more among the well-to-do classes and to a much less extent among the poorer people. I think that early consummation of marriages is partly responsible for the disease.

Q. Do you not think that the richer classes observe Purdah whereas the poorer classes do not, and that may also be one of the causes?

A. Yes; that is another factor.

Q. Are early marriages prevalent more amongst the rich people or the poor people?

A. It is the rich people who generally have early marriages. There is the dowry system according to which the bride must give the bridegroom a lump sum. Sometimes the sum is as large as Rs. 20,000. Besides this the Karnavan of the family has to give to the girl a monthly maintenance allowance which usually ranges from Rs. 5 to Rs. 100.

Q. Is there the Tarawad system amongst the Moplahs also?

A. Yes; only so far as self-acquired property is concerned, we are governed by the Muhammadan law, and this is as a result of a bill recently passed in the local Legislative Council.

Q. Do all the members of the Tarawad marry?

A. Yes.

Q. Do you mean to say that the question of dowries has become a troublesome feature amongst you?

A. Yes; on the day of marriage a document is executed saying that such and such property is given on the occasion of the marriage as maintenance to the girl. Not only this, the husband goes and lives in his father-in-law's house.

Q. Supposing the girl is dead, what becomes of the maintenance allowance?

A. Then it goes to her children.

Q. Now, two methods have been suggested to prevent child marriages. One is raising the age of consent which is at present 13; and the other is that we should have a marriage law to prevent marriages altogether before a certain age. Would you advise Government to legislate on either or both of them?

A. If exemptions can be granted, in cases for instance when the father of the girl is on his deathbed and he wants that in the interests of the girl she should be married to a particular boy of his choice, I think we can have a marriage law.

Q. Out of the two, would you prefer the age of consent law or the marriage law?

A. I would prefer the age of consent law.

Q. What would you have as the age of consent in marital cases?

A. I think the age should be not less than 15.

Q. We have been told that such cases do not come to court, because the parties hush them up. Do you think that if we raise the age to 15, it will be more effective, or will it still be a dead-letter?

A. My opinion is that if there is a law, people will come to realise it, and will not go against it, and so cases of this kind would be on the decrease. The very fact of the existence of the law will induce people to obey it.

Q. What age would you fix for extra-marital relations?

A. I would fix that also at 15.

Q. What are the reasons for your not being in favour of a law fixing the age of marriage?

A. I think that will be very hard on the people.

Q. Why?

A. Penalising marriage would be unworkable, but you can penalise consummation.

Q. But penalising consummation is even now unworkable.

A. But still cases of that kind will be on the decrease.

Q. But we have been told that once you allow marriage to take place, you should not interfere with the affairs between the husband and the wife. What is your opinion?

A. In that case the age of marriage may also be fixed at 15. I do not think it will be hard on the Muhammadan population.

Q. Do you think it will be objected to by the Muhammadans?

A. I think if exemptions of the kind I referred to are granted, it will not be objected to. At the same time bonds should be taken from the parents of the boy and the girl to the effect that consummation will be allowed only after the prescribed age.

Q. Do you think that cases of the breach of the law will come to light? Who will bring them to court?

A. It is true that these cases are not generally brought to courts.

Q. Then would you allow anybody to make a complaint?

A. Yes.

Q. Would you make the cases cognisable by the Police?

A. No; I would not make them cognisable; but I would allow any man interested to make a complaint.

Dr. Beadon: You say you have seen several cases of child marriages. Can you give us one or two instances in which the girls suffered?

A. I can give instances of girls having become weak. In one of the families closely connected with me, a girl was married when she was eight years old. She was badly handled when she was about 12. The husband was about 18 or 19.

Q. Was there an injury?

A. Yes; there was some slight injury.

Q. Do you know of any other case?

A. I know of one instance in which the girl died during labour. She was thirteen when she died.

Q. When did these happen?

A. The second case happened about 7 years ago, and the first about 19 years back. Now-a-days people are more careful and such cases are rare.

Mrs. Nehru: If the age of consent is raised to 15 do you think there will be more cases of breaches of the law?

A. I think there will be less number of cases.

Q. Does consummation of marriage take place at present before 16?

A. At present a great many cases take place before 16.

Q. Do you think there will be many cases of breach of the law if the age of consent is fixed at 16?

A. To begin with, there will be many cases.

Q. What is the age of consummation amongst the majority in your community?

A. It is usually after 14.

Q. Are not marriages generally brought about by the parents?

A. Yes.

Q. Does the dowry system prevail amongst all Moplahs here?

A. Yes; and the amount of the dowry varies according to the status of the family. In Calicut the amount was fixed at Rs. 230, but in practice there is much of bargaining.

Q. Is there inheritance on the side of the mother?

A. According to the law prevailing here, the mother's property does not go to the Tarawad, but it is inherited by her children.

Q. In a Tarawad what part of the property is given to women?

A. Everybody gets an equal share. There is no distinction between male and female.

Q. Do you think that there are any religious injunctions amongst Muham-madans against the fixing of the age of consent?

A. I remember a saying which is attributed to the Prophet: "Go to prayer before time is lost; marry your daughters before they attain puberty." I do not know if it is authentic. It may after all be only a proverb.

Q. Do you think that Muhammadans here entertain this view?

A. No.

Q. What is the population of Moplahs in Calicut?

A. In the city it is about 10,000.

Q. Do they take advantage of the girls' municipal schools here?

A. No.

Q. Do the elders teach their girls at home?

A. They are taught Arabic, and they are taught to read the Quran. It is only recently that a Moplah girl passed her S. S. L. C. examination and she has gone to Madras for higher education. Her sister is now reading in the S. S. L. C. class.

Q. Do the people in the town observe Purdah?

A. Yes; in villages they do not.

Q. Is there any period intervening between marriage and consummation or marriage?

A. There is no rule on the subject. Generally consummation of marriage takes place on the same day as the Nika, and in very rare cases there is an interval of one or two years. But it is generally left to the convenience of the parties. As a rule consummation is not allowed before puberty.

Mr. Mitra: What do you think is the age at which girls usually attain puberty in this part of the country?

A. It is usually between 13 and 14.

Q. Do you think that a certain period should elapse between the attainment of puberty and consummation?

A. I think at least two years should elapse.

Q. What age would you have as the age of consent in extra-marital cases?

A. 15.

Q. In the case of marital relations it is only the physical development of the girl which has to be taken into consideration; but in the case of strangers the intellectual development of the girl should also be taken into consideration so that the girl may be fit to realise the consequences of her act. The age of majority has been fixed as the age at which persons will be capable of exercising their discretion in disposing of property. In view of these, would you be prepared to raise the age in extra-marital cases to 18?

A. It is better to raise it to 18; but as a workable age I have suggested 15.

Q. Are there cases of abduction here?

A. In Malabar such cases are very rare.

Q. What is the percentage of Moplahs in the city and in the District?

A. In the city they are about 30,000 out of a total of about 88,000. In the Malabar district they are about 10 lacs out of a population of about 30

laes. The Moplahs form one-third of the entire Muhammadan population in the Madras Presidency.

*Mr. Shah Nawaz:* You suggest that the age of marriage might be fixed at 15. Supposing we pass a law on these lines, do you think that there would be objection from the Moulvies, and if so what would be the extent of the objection?

A. For the matter of that there would be opposition to any kind of legislation. There was and now is opposition to legislation about vaccination. If at all there is opposition to this measure, the opposition will be from a negligible number.

Q. You say that if there is a marriage law, there ought to be some exemptions provided. What should be those exemptions?

A. If it is proved that there is absolute necessity for celebrating the marriage, and the parties agree that they will not consummate the marriage before the prescribed age, the marriage might be allowed in such cases. It might so happen that the father might desire to give his daughter in marriage to a man of his choice so that she might be financially well off, otherwise possibly the whole family might be ruined financially.

Q. Would you like that the father should take the sanction of some prescribed authority, say the District Judge?

A. In Malabar the responsibility might be fixed on the Karnavan.

Q. Do you belong to a Tarawad?

A. Yes; my uncle (mother's brother) is the Karnavan of the family.

Q. What is the feeling of the women on a subject like this?

A. Formerly amongst us girls used to be married at a late age, sometimes at 18 or 20. It is only during the last 30 or 40 years that early marriages have come into existence. My mother was married early, but that was objected to by my grandmother at that time.

Q. Now, do you think that women in your community would favour the fixing of the age of consent or the age of marriage at 15?

A. Yes.

Q. Would you carry on social propaganda along with legislation?

A. I think there is absolute need for such propaganda.

Q. Can you suggest any means by which that can be done?

A. It can be done by means of newspapers and by giving magic lantern shows.

Q. Have the Mullahs in your part of the country got a great influence over the illiterate people?

A. No; those days are gone.

Q. Are your women sufficiently educated to understand the articles in newspapers?

A. Our women have got literature of their own. They can read and write Arabic and understand Malayalam written in Arabic characters.

*Mr. Bhargava:* I understand that you are in favour of raising the age of consent because you think that the race suffers if these early marriages are allowed.

A. Yes, that is the most important reason. There are certain other reasons also.

Q. May I know what those reasons are?

A. Another reason I can say is that so many cases of suffering of girls under teens which are not brought to light will be stopped.

Q. Then I understand that whether there is opposition or not you will like that the age of consent should be raised.

A. Yes.

Q. In spite of any kind of opposition, even riot or bloodshed will you like that the age of consent should be raised?

A. There would not be any riot or bloodshed. There may be cases here and there which will not even be brought to the notice of the authorities.

Q. I understand that you are of the opinion that it will be very difficult to detect these cases and so you are in favour of giving the right of complaint to the general public as at present.

A. I would give this right to the nearest relations of the girl.

Q. As at present, every member of the public has got a right to bring this matter to court and so far there has not been any misuse of this provision: Do you want to interfere with this provision which exists at present?

A. When the age is raised I would like it to be confined to the nearest relations.

Q. If you confine it to the nearest relation do you realise that very few cases will come to light as they are interested in not bringing these cases to court?

A. But in the other case there is every likelihood of mischief being played by the enemies of the party.

Q. You are afraid of the mischief by the enemies. Supposing that misuse is avoided by instituting a system of sanctions.

A. Then I would have no objection.

Q. Some judicial authority may grant sanction in a case in which the complainant is an outsider.

A. Yes.

Q. You are the president of the District Board. What is the provision regarding the registration of births now prevailing in rural areas? Who keeps birth registers?

A. The Adhikari keeps the register.

Q. Does he get anything from Government?

A. I don't know.

Q. The entries are made by him on his own authority or the parents have a statutory obligation to report to him.

A. In the villages sometimes the villagers themselves send the information to the Adhikari or sometimes the Adhikari himself makes the entries.

Q. There is no obligation to report on the parents.

A. There is an obligation.

Q. Is there any penalty attached to failure to report?

A. Yes, I think there is a penalty.

Q. Are there any cases in which these penalties are enforced?

A. I don't think.

Q. You think this registration is fairly satisfactory.

A. It is not so satisfactory.

Q. Would you like that there should be a provision about obligation on the parents to report the births?

A. Yes, I think so.

Q. Is divorce allowed among Moplas?

A. Yes, it is allowed. According to Mohammadans it is one thing when sanctioned by God but another thing when there is the wrath of God. Divorce is not practised at all. It is very seldom that divorce takes place. Polygamy and divorce are both very rare among Mohammadans.

Q. You say the husband goes to the house of the wife. Then are separate rooms allotted to them there?

A. Construction of the house is such that if there are four girls there will be 4 apartments.

Q. How long does the husband stay in the house of the wife?

A. When the family increases they will have separate houses built.

Q. If there is no marriage law would not the age of consent law be very difficult to work as the husband goes to the house of the wife soon after the marriage?

A. Nikah gives the man possession of the girl according to law, but there is another kind of taking possession of the girl which is called consummation. So it does not mean that after Nikah the husband goes to the house of the wife. If it is marriage with consummation then he goes to the house of the wife. In many cases the Nikah will be performed and consummation does not take place. Then after sometime the other ceremony which is called 'Vetal Kodal' is performed.

Q. I understand this ceremony of Vetal Kodal always takes place along with marriage.

A. Yes.

Q. You are of opinion that unless you have got the marriage law the age of consent law will be very difficult to work?

A. Yes.

Mr. Kadri: I have not properly understood you with regard to this question of lodging the complaint. You first said that only those interested in the girl may be permitted to file a complaint in case of rape by a husband against his wife, and subsequently you said that if there was sanction anybody should be allowed to make a complaint. What is the sanction you refer to?

A. I mean there must be penalty imposed on the man who gives false information.

Mr. Bhargava: You said some judicial authority should be able to sift cases and sanction the prosecution.

A. No, I mean that if you leave it to the general public to bring a charge against a man and if a false case is brought up the informer should be prosecuted.

Q. Do you mean he must be punished heavily under section 211, Indian Penal Code?

A. Yes.

Mr. Kadri: Is there any marriage register kept by the Qazis who perform marriages here?

A. In every place it is kept.

Q. Is the marriage ceremony invariably performed by the Qazis among the Moplas?

A. My family has kept one special, recognised, Qazi but there are two Qazis working in different parts of the city and they keep marriage register.

Q. Is there any prescribed form in which they keep the register?

A. They will just record it in black and white. No form is prescribed.

Q. If we have a general system of registration of marriages for all communities do you think it will be a good thing to do?

A. That will be very good.

Q. In this register the ages of the marrying parties may also be mentioned. Is it not?

A. Yes. There are four different schools of thought among the Moham-madans. According to the Hanifi law a minor girl who has not got her father can be married but Shafi does not permit the marriage of a girl who is a minor.

Mr. Kanhaiya Lal: Who would maintain these marriage registers?

A. The revenue authorities should maintain the registers.

Q. Both in towns and rural areas?

A. Yes.

**Written Statement, dated the 10th August 1928, of M. R. Ry. T. A. SETHA AYYAR AVL., B.A., B.L., Government Pleader and Public Prosecutor, South Malabar, Calicut.**

In my opinion there is no perceptible dissatisfaction with the state of the law as to the Age of Consent as contained in sections 375 and 376, Indian Penal Code, except among a small minority of English educated persons who are sincerely anxious to improve the health and economic condition of the people. It is not possible that, in a vast country like India where the masses are steeped in ignorance, there will be any widespread dissatisfaction in matters marital and social and demand for liberation from the conditions and restrictions which have been guiding the life of the people for several centuries, unless the harm is very patent and striking.

I think, however, that an advance on the present law is necessary and desirable by raising the Age of Consent slightly. In the first place, the immature and heavy strain of child birth and the rearing up of children on young girls, especially among the poorer classes, tells very much on their health, and many young girls lose, after giving birth to one or two children, their vitality and energy, more or less permanently, and become prematurely old. In several cases they die young leaving the children miserable and a burden to others. These children are also not, and could not be, properly cared for, and there is considerable infantile mortality. This affects the whole future generations. The nation itself becomes less and less virile. My second reason is that the present indefinite increase of population without a corresponding increase in the income of the people, which cannot, in the nature of things, be unlimited, prejudicially affects the economic condition to an alarming extent. Insufficiency of food, clothing and other necessities of life impoverishes the physical stamina of the people and brings about illness of various kinds and early mortality. This must necessarily injure the intellect and the mind of the population. However good a person's intellect and mind may be, we cannot expect them to function properly and fully if they are owned by a physically decrepit body. In my opinion more than half the ills of the world would disappear if the people had enough of the necessities of life. A man or a woman, rich or poor, would be much better off with a smaller number of children. Among the poor people it is impossible to give an adequate meal to the children even once in a day. If people marry late—at any rate if the Age of Consent is raised—the evil is minimised.

I do not, however, think that the Age of Consent should suddenly be raised very high. As I have stated above, the masses are steeped in ignorance, and even among the educated classes deepseated and age long sentiments and prejudices do not allow well reasoned and sound conclusions to be acted upon. And in the case of the high caste Hindus there is the additional factor to be reckoned with that their religion enjoins the early consummation of marriage. It is education and enlightenment alone that can enable people to realise the harm engendered by these difficulties and obstacles; and unfortunately the whole population cannot be adequately educated in a few years—it must be gradual, and it cannot be otherwise. Reforms, to be successful in a country like India influenced to a considerable extent by traditions and sentiments, must be gradual and not revolutionary. We must proceed rather slowly but surely taking the masses with us. Idealism is good in paper and in theory but it is impracticable. Under the present circumstances I would fix the age at 15.

I do not think that the legislation of 1925 has had any real effect on the people. Education, enlightenment and economic necessities are operating to gradually raise the Age of Consent. The effect of legislation will not be felt in two or three years.

I do not consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. In my part of the country girls attain puberty at 13, leaving out of account abnormal cases.



I think that consummation should be put off for two years after the attainment of puberty.

I am of opinion that the punishments provided for these conjugal offences are rather very severe. Though it is only the maximum penalty that is fixed, yet I am not for investing Courts with power to inflict such severe punishments in matters of what are really social offences. I would prescribe three categories of punishment:—

- (i) when the husband has sexual intercourse with the wife—six months' simple imprisonment, or fine, or both.
- (ii) When the man has sexual intercourse with a girl with her consent when she is under fifteen years of age—Imprisonment of either description for a term which may extend to two years, or fine, or both.
- (iii) In all other cases I would retain the punishment prescribed in Section 376, Indian Penal Code.

Punishment should be adequate but should not be unnecessarily harsh. If a husband, in a weak moment or unable to resist parental or social pressure, has sexual intercourse with his young wife, it will be cruel to inflict a very severe punishment on him which would, by the memory of the stigma attached to it and in many cases by social excommunication mar the future enjoyment and happiness of the husband and wife.

I do not think that there is any necessity to adopt any difference in the procedure of trials for offences within and without the marital state.

With reference to question No. 19, I would suggest the adoption of some such safeguard as is contained in clauses 8, 9, 10 and 11 of Mr. Harbilas Sarda's Bill with a security for Rs. 250 instead of Rs. 100 in clause 11 (1).

There will be many evil-minded informants in such matters, and the law should control and check the satisfaction of private grudges at the expense of the good name and feelings of others.

I am decidedly of opinion that legislation fixing a higher Age of Consent is better and is likely to be more effective than legislation fixing the minimum age of marriage and that the former would be in consonance with public opinion in my part of the country, especially among the Brahmins. It cannot be ignored that there is a good percentage of the population holding orthodox, but sincere, views in the matter that marriages should, consistently with their character as a sacrament, be performed as early as possible—at any rate before the girl attains puberty. It is not statesmanship to flout the opinions of such people who have been brought up in that sentiment for centuries, and it is not necessary or desirable to do so. But it is also a fact that, among Brahmins with the exception of Nambudris, marriage is not consummated before the girl attains puberty. Raising the Age of Consent slightly will not put a severe strain on the feelings and sentiments of these people though they would resist to the utmost the fixing of a minimum age for marriage. If it is in any way possible to achieve the object in view without unduly wounding the sentiments and susceptibilities of the orthodox section of the community, that way should certainly be adopted.

Obviously I would have all the methods mentioned in question No. 21.

**Oral Evidence of Mr. T. A. SESA AYYAR AVL., B.A., B.L.,  
Government Pleader, South Malabar, Calicut.**

(Calicut, 14th November 1928.)

*Chairman:* I understand the gist of your evidence to be that you are for raising the age of consent to 15 and you do not want a law fixing the minimum age of marriage, like Sarda's bill.

A. I would rather qualify it and say that it would be desirable to fix the age of marriage at 12 for girls.

Q. And boys?

A. You may fix any age for boys. It may be fixed at 18 or so.

Q. You want to prolong the period when Garbhadan should take place to 3 years, from 12 to 15.

A. Yes. The reason why I fix the age for marriage at 12 is this. There are certain castes, especially the Brahmins, of Southern India who think, whether rightly or wrongly it is rather too early to judge, that because they have been follow the custom for so long, the marriage of girls should be celebrated before the attainment of puberty. The girls attain puberty at about 13. Leaving out the exceptional cases there is no harm in fixing the age at 12, because you raise the age of consent to 15. The Brahmins who are guided by their sentiment and their prejudices which are not of recent growth will not also say that their feelings have been wounded. Marriages no doubt take place before the girls attain puberty but so far as I know, except in exceptional cases, consummation of marriage does not take place before the girl attains puberty.

Q. When do the girls generally attain puberty in these parts?

A. Say at about 13.

Q. There are two years, according to you, between marriage and the time when consummation can legally take place. How to get over that? In these two years there is no likelihood of consummation taking place?

A. There is absolutely no harm in asking the parents to wait for two years and in several cases I know, as a matter of fact, that consummation is put off till about a year after the girl attains puberty. That is the practice.

Q. Is that a very large practice?

A. It is on the increase now.

Q. How many people, do you think, postpone the consummation of marriage for a year after the attainment of puberty?

A. Say about 30 to 40 per cent. of the people actually put off the consummation even now. It was not so before but the percentage is on the increase now.

Q. That is amongst the Ayyar class to which you belong, and the practice of early marriage is also amongst you. Is it not?

A. Yes.

Q. I want you to tell us the feeling of your community on the question of prolonging the period for the celebration of the Garbhadan ceremony. You suggest 15 because you think that already it takes place at 14 and there is nothing to prevent them from doing so, i.e., there is no shastric injunction laying down that immediately on the attainment of puberty there must be consummation.

A. No doubt the orthodox will say that consummation must take place within 16 days of the attainment of puberty. But that orthodox view is being gradually discarded. The English educated especially never observe that injunction and their example is followed by those who are not English educated. I can say this much that in about 80 or even 90 per cent. of the cases Brahmins do not celebrate the consummation of marriage within 16 days of the attainment of puberty.

Q. When the practice has gone up to 14 you think 15 would be a good enough age.

A. I am personally for raising the age of consent to 15 and I may be even prepared to raise it higher but my opinion is that there is no use in having recourse to this legislation all of a sudden. It must be gradual. There is no harm in that though on the other hand you will be taking the masses also with you and that I would consider to be statesmanship.

**Q.** Do you think that there are many cases in which the present statutory law of 13 is broken?

**A.** No such instance has come to my knowledge.

**Q.** Have you heard of any?

**A.** No. Of course there may be one case in a thousand.

**Q.** If we raise the age to 15, if we prohibit consummation before 15, do you think there will be a large number of cases of the breach of the law?

**A.** Comparatively speaking there will a larger number. In most cases Garbhadan takes place after 14.

**Q.** In that case do you think that those cases will come to light?

**A.** Some cases may come to light.

**Q.** But how will they come to light?

**A.** Their enemies will bring them out.

**Q.** In one case out of a thousand there may be an enemy but who will do this for the sake of principle.

**A.** But their number will be very limited. Somebody will bring the case out.

**Q.** Now you perceive that there will be evidence only if there are children. Unless there are issues, from marriage, below a prescribed age there will be no evidence of cohabitation having taken place.

**A.** So far as Brahmins are concerned it is possible to get evidence for the consummation of marriage. Consummation of marriage is always attendant with certain formal ceremonies and those ceremonies are performed publicly.

**Q.** Don't you think there is a very powerful motive for girl's parents and the husband's parents to hush up a case like that?

**A.** Certainly there is a motive. Whatever their motive may be, it is not possible to conceal all the sources of evidence.

**Q.** The only evidence can be when the child is born and it is possible that no child may be born below the prescribed age, or if these ceremonies are performed openly there is of course this evidence.

**A.** There is a regular ceremony. Some mantras are uttered. The neighbours are invited. It is a public thing. The priests have to officiate. It is not possible to shut out all the sources of evidence.

**Q.** That may meet the case of Brahmins here who perform the Garbhadan ceremony publicly, but in many parts of India this ceremony is either not performed and certainly not performed publicly.

**A.** I don't know about other parts of India. I can speak of the Tamil districts of Cochin and Malabar.

**Q.** What about the punishment? Would you like the punishment to be what it is?

**A.** I would like that the present punishment ought to be modified considerably. Even what it was before the amendment of 1925 requires to be modified. What I would recommend is that when the husband has sexual intercourse with his wife the punishment should be 6 months' simple imprisonment or fine or both. When the man has sexual intercourse with a girl with her consent when she is under 15 the punishment should be 2 years, or fine or both.

**Q.** You mean to say that even if the girl is 8 or 9 the punishment should be 2 years only. A girl of 12 cannot really give consent. She is not capable of doing that. Do you think that 2 years' punishment would be sufficient?

**A.** I would fix only two years. The court is given this maximum power. Supposing a man has connection with a girl of 10 or 11 the magistrate can give him the maximum punishment and if she is 14 or 15 he may give less punishment.

*Q.* But do you realise that it is physically impossible for a child of 8 or 9 to give any consent? You want in such cases also the punishment to be 2 years.

*A.* The reasons are that a man is not likely in ordinary circumstances to have relations with a girl of 8 or 9 and then again supposing this offence is committed and an injury is caused to the girl which is very likely in the case of a girl of a tender age, he can be punished for that also.

*Q.* It is very doubtful whether he can be punished under two sections for the same offence.

*A.* If in the same transactions two or more offences are committed a man can be charged with those two or three offences.

*Dr. Beadon:* In the course of your answer to question No. 2 you have said, in the first place the immature and heavy strain of child birth and the rearing up of children on young girls especially among the poorer classes tells very much on their health. Can you give any instances which have come to your personal knowledge of this heavy strain?

*A.* I am not in a position to give specific instances. I know of instances but I shall not be able to name them.

*Q.* We don't want names. You need only give us the ages of the girls and the condition of the children born. We only want particulars and we don't want any names.

*A.* One was the case of a distant relation of mine in a village called Palla. When the consummation took place the girl was about 11 or 12 and husband was between 35 and 40.

*Q.* What happened to the girl?

*A.* She gave birth to a child which was rather puny. The child died and the girl was suffering from all sorts of complicated diseases for about two or three years and she eventually died.

*Q.* Was it immediately after the birth of the child that she began to ail?

*A.* Two or three months after the birth of the child.

*Q.* When did the child die?

*A.* About 6 or 7 months after birth. This case happened several years ago.

*Q.* Have you any more recent case?

*A.* I know of some two or three such young girls having given birth to children at a rather premature age.

*Q.* At what age?

*A.* In one case the girl was about 12 or 13 and the husband was between 20 and 25.

*Q.* Do you know of two or three such girls who were ailing?

*A.* Yes.

*Q.* Was it the first child?

*A.* Yes.

*Q.* Was it because that she was not properly looked after?

*A.* They belonged to some middle class family and so I take it that they must have been taken care of. I am not in a position to say definitely whether they were or were not properly taken care of. My impression is that they were.

*Q.* What were they ailing from? Was it fever?

*A.* In one case the parents suspected of tuberculosis even.

*Q.* Was that a recent case?

*A.* That was about 2 years ago.

*Q.* That was after the first child birth?

*A.* Yes. She is no doubt alive now but is not very healthy.

*Q.* Did she give birth to any more children?

A. I don't know that.

Mrs. Nehru: Have you given any age for extra-marital cases?

A. 15 for both marital and extra-marital.

Q. What is your reason for reducing the punishment in extra-marital cases?

A. When the girl consents I do not like that the punishment should be very severe.

Q. Have you seen so far any cases where any misuse was made of the present law?

A. I don't know of such cases.

Q. You merely don't like it.

A. That is my view.

Q. You don't have any regard to the age of the girl. The girl may be 8 or 9 you don't like the man to be punished for more than 2 years.

A. It is not likely that a man will have any relation with a girl of 10 or 11. It is not likely that such cases will come to court. Many cases of rape do not really come to court.

Q. If such a case does not happen there will be no application of that law. Supposing it comes to court?

A. If it is when a girl consents I don't like that the man should be very severely punished.

Q. Do you think that a girl is capable of giving consent below 15?

A. In my part of the country girls are in a position to give consent even at 12 I should say, in the case of precocious girls.

Q. Can girls of 7 or 8 also give consent?

A. Certainly not.

Q. But you don't want to make any difference?

A. I am almost certain that a man is not likely to have relations with a girl of 8 or 9.

Q. Supposing such a case happens.

A. My impression is that there will be some sort of injury to the girl also and he can be punished for that also under the 'grievous hurt' section.

Q. May I know whether after marriage and before a consummation a girl goes to her husband at all?

A. Of course the girl will be going to the husband's house, but going is different from having consummation. There will not be consummation.

Q. But if the girl goes to the husband's house how would you check whether there has been any consummation or not?

A. My experience is that in 90 per cent. of the cases when the girl goes to her husband's house she does not meet her husband I know it as a matter of fact.

Q. Are the changing conditions of the present day the same as they used to be?

A. So far as this point is concerned there is no such change.

Q. Then you were afraid that the enemies might bring forward complaints. Is it right to give scope to enemies like this?

A. I have made a provision that some security should be taken from the person who gives the information. I found that in Mr. Sarda's Bill the amount was fixed at Rs. 100 and I have said it should be raised to Rs. 250.

Chairman: There is already section 250 of the Criminal Procedure Code which provides for false, frivolous and vexatious accusations. The man can be prosecuted under Sections 182 and 211 of the Indian Penal Code.

A. But there is also the risk of the prosecution not being sustained. You may have some opinion which the court may say was only hearsay. The court

need not necessarily punish him. The court has the discretion to forfeit any portion of the security.

*Q.* That provision is already made in Section 250, Criminal Procedure Code.

*A.* This is information and that is with regard to complaints. An information need not necessarily be a complaint. Information may be given but it need not necessarily be a complaint.

*Mr. Bhargava:* An information that is given to a police officer need not necessarily be a complaint?

*A.* I say there may be information which need not be a complaint. It may be given to any authority. Such a distinction is possible. This security which I have suggested is in addition to the provision under Section 250, Criminal Procedure Code.

*Mrs. Nehru:* Have you found anybody who has taken advantage of the present law by making frivolous complaints?

*A.* I have not come across any instances.

*Q.* Why do you fear then?

*A.* Human nature being what it is, I have made a provision as a sort of safeguard. When a provision is to be made for punishing a man who has consummation when the girl is below 15, I expect that there will be bad persons who will take advantage of it and try to ruin their enemies. I want to make some safeguard for that, not that it need necessarily be used.

*Mr. Mitra:* You say, in the case of the high caste Hindus there is the additional factor to be reckoned with that their religion enjoins the early consummation of marriage. Will you refer us to any particular text?

*A.* I do not refer to any. I know as a matter of fact that people have that belief and say that there are some texts laying that down. This much is certain that people believe, and I also believed till recently, that consummation should take place within 16 days of the attainment of puberty.

*Q.* Is this belief confined only to the Brahmins?

*A.* Yes, only to the Brahmins.

*Q.* Are the Brahmins anxious to observe this injunction only or all the injunctions of Manu?

*A.* Gradually these injunctions or Shastric rules are being given up and as English education advances they are not most anxiously observed. Some do not observe them. For example, I myself do not observe them, but there are others who do observe.

*Q.* Will you be surprised if I quote to you instances of injunctions which are not observed by even the most orthodox Brahmins?

*A.* I do not want any quotation. I do not myself attach any importance to this thing. I do believe that there are other persons who think that religion enjoins early consummation. They don't know of any such authority like Manu. They do believe that there must be early consummation of marriage.

*Q.* Then they follow custom and do not care for the actual texts of Manu.

*A.* More or less it is so.

*Q.* But that idea is gradually dying out.

*A.* Yes.

*Q.* You certainly have read Lion's Medical Jurisprudence and known that there is a notion that venereal diseases can be cured by cohabiting with a virgin girl of tender age. Considering that, don't you think that a girl of 8 or 9 should not be considered as having given any consent? In America such cases are not even reported. In your suggestion No. 2 you take into consideration the consent of the girl. No girl below 15 can give intelligent consent.

*A.* I do not expect that there will be many cases where men will have sexual intercourse with a girl below 12 years. And if there are any such cases

there is likelihood of some sort of injury to the girl, for which he can be punished.

Q. It is not for any sexual pleasure that a man may cohabit. But in order to get rid of a venereal disease such cohabitation may take place. Even then you would limit the punishment to 2 years?

A. I know of no such notion in my part of the country, except that I have read some references being made to that. I know of no such cases in my part of the country.

Q. You are legislating for the whole of India and if there are cases in other parts won't you undertake legislation?

A. My experience is confined to South India only.

Q. Are you ready to take it from me that there are cases?

A. From you; but not from Lion's Medical Jurisprudence.

Q. Are you ready to alter your suggestion No. 2 with regard to punishment?

A. I will say between 12 and 15.

Q. You make no distinction between marital and extra-marital cases. I should like to tell you that cases of rape and abduction are not so rare in other parts of India. There are frequent cases. I think you will also agree that girls in India are generally ignorant and live indoors and to give consent for cohabitation with a stranger a higher age is essential. Would you have any objection therefore if the age in extra-marital cases is raised to more than 15?

A. I have no objection to raise it if that is the case in other parts. My experience is confined to the Madras Presidency only.

Q. This legislation is for the whole of India.

A. When you tell me that that is the condition in other parts I will agree to a higher age.

Q. Then in those cases where there are any cases of abduction and rape you are ready to raise it to 18?

A. My primary object is to protect girls but as I say, my experience is confined to this Presidency only. I have taken into account the circumstances obtaining in this Presidency only. I don't say anything against raising the age so far as other parts of India are concerned.

Q. You don't feel that there can be any objection in raising the age in extra-marital cases even from the orthodox point of view.

A. Even in extra-marital cases the orthodox people will raise some sort of objection. Orthodox people are actuated more by their sentiment than what is necessary for the good of the country. They do not realise these things. They are not sincere.

Q. In extra-marital cases there could be no objection because they are not affected in the least. Against a stranger as much protection should be given as possible.

A. Personally I agree. The orthodox people will dislike this. They will always raise some sort of objection.

Mr. Shah Niwaz: Do people of your community marry their girls generally at the age of 12 or before?

A. Now-a-days we have marriages at 12 and after.

Q. In what number of cases marriage takes place below 12?

A. Their number is rapidly on the decline.

Q. What is the number of cases at 12? Is that a very large number?

A. Large enough. The age is gradually being raised.

Q. What about non-Brahmins?

A. They generally marry after puberty.

Q. What is the percentage of Brahmins to non-Brahmins in this Presidency?

A. They form a very small percentage.

Q. Then why do you fix the minimum age at 12? Is it in order to please the Brahmins? In order to please a minority?

A. In order not to offend their religious feelings.

Mr. Shah Nawaz: Do people of your community consider pre-puberty marriage mandatory?

A. Yes.

Q. What is your opinion of this injunction?

A. I may say that I shall not be able to quote chapters on this but so far as this is concerned it is gradually desirable to increase the age of marriage also but I am not prepared to do it now. As education advances in the country the age can be gradually increased.

Chairman: Supposing the Government were to legislate that the minimum age of marriage should be fixed at 14, 15 or 16 in accordance with the wishes of the people of India generally, would the Brahmins object to it?

A. Certainly the Brahmins would object to it.

Q. In what way they would object to it?

A. In all possible ways they can resort to. They cannot raise an army and fight the Government.

Q. Don't you think they will acquiesce in?

A. Unless there is no help, we have to acquiesce in it.

Q. That is why you want to fix the minimum age at 12.

A. Yes. There is absolutely no harm to fix the marriageable age at 12.

Q. Suppose we have the minimum age at 15, where is the harm?

A. The harm is that you will only injure the feelings of the Brahmins. That is all.

Q. Would you yourself like to fix the minimum age at 15?

A. Personally I am not against post-puberty marriage. Consequently personally I have not objection to have it at 15, but that shouldn't be taken as the representative opinion.

Mr. Shah Nawaz: Is the other religious injunction that you must have intercourse with a wife 16 days after puberty, imperative?

A. The orthodox people consider it imperative.

Q. Are they breaking it gradually?

A. Generally now-a-days they put it off for some months.

Chairman: Are there cases in which puberty of girls is concealed although it takes place?

A. Yes: There are certain cases. Amongst the Brahmins when the girls attain puberty, for fear of social ostracism, they do conceal the attainment of puberty.

Q. How is the pollution avoided in the house?

A. The girl will not be moving out of the house. I know personally of two or three cases but how they actually manage about pollution, I cannot say.

Q. Is there any belief amongst the Nambudaris that they must marry their girls before puberty?

A. No.

Q. Do you know on what texts they rely because here are two Brahman communities one is Aiyer and the other is Nambudari?

A. But the Iyers are spread over the whole of the Madras Presidency whereas the Nambudaris are confined to Malabar, Cochin and Travancore.



*Q.* Are not the Nambudaris considered even by the Iyers as the higher class of Brahmins?

*A.* No.

*Q.* Then who treats the Nambudaris as higher Brahmins?

*A.* The non-Brahmins look upon them as higher Brahmins. In Malabar a Nambudari is given As. 8, an embrandari of South Kanara is given As. 6 and a Pattar is given As. 4 as dakshina.

*Q.* Are they looked upon as a sacred caste by the non-Brahmins?

*A.* Yes.

*Q.* Have you ever had a talk with these Brahmins?

*A.* Yes.

*Q.* How do they get over the injunctions over marriages?

*A.* That is the custom which has been observed from the time of Parasurama.

*Q.* How do they get over the injunctions from Shastras?

*A.* I am not influenced by Parasurama's teachings. Those people say that there the injunctions are laid down.

*Mr. Bhargava:* Is the custom of widow marriage prevalent amongst the Brahmins?

*A.* No.

*Q.* So that if the marriage age is raised to 15, you will have the minimum chances of child widowhood. Is it not?

*A.* No doubt.

*Q.* Then you say that so far as the Age of Consent is concerned, 15 per cent. of the people rely on religious injunctions. Are those religious injunctions obligatory?

*A.* Yes.

*Q.* So that I understand from you that in the interests of the race, the religious injunction of the 15 per cent. of people should be sacrificed?

*A.* That is why the Age of Consent should be raised.

*Q.* Then consistently with the argument that you have been pleased to adopt in relation to the enactment of the Age of Consent, will you agree with me that if only 15 per cent. of the Brahmins object to the law relating to the marriage, that should not be considered say the age of marriage at 14. Why should you care the opinion of the 15 per cent?

*A.* I say that so far as the age of marriage is concerned, there will be a larger percentage who will object to it. But why should we even wound the feelings of those 15 per cent. also. That is my idea. I should say we should respect the feelings of those 15 per cent. also.

*Q.* I understand that 30,000 people marry their girls at an advanced age. Are those people ostracised from the society?

*A.* No; because they marry their girls before puberty.

*Q.* Suppose the educated people marry their girls at an age which is more than 12, are they boycotted from the society?

*A.* No, they are not, because they do it before puberty.

*Q.* Are there uneducated Brahmins who marry their girls after the attainment of puberty?

*A.* So far as I know in the whole of Malabar, I know of one instance only

*Q.* Has he been excommunicated?

*A.* Of course many people associate with him.

*Q.* Then what is the meaning of ostracism?

*A.* It means he has not been kept out of any caste assemblage but they don't mix with him.

Q. May I take it that you yourself are in favour of post-puberty marriage and so far as you are concerned you will associate with him. Is it not so?

A. Supposing there is a function in my house and I invite so many of my friends and relations and if they object to his coming, then I won't care for him.

Q. I understand that in Madras proper it is not so and many girls who are educated amongst the Brahmin families remain unmarried.

A. I may tell you that so far as my knowledge goes, only the advanced social reformers have recourse to that.

Q. Are these advanced social reformers excommunicated from the society?

A. Not necessarily but the orthodox people will not associate with these people.

Q. Will the other Brahmins allow the sons of the social reformers to marry their daughters? If you just raise the age, will not people come to regard it as a good thing?

A. In my own opinion you can raise the age of marriage also but don't do it all of a sudden now.

Q. May I say that if we raise the marriageable age, we will be strengthening the hands of these social reformers?

A. So far as the social reformers are concerned I don't think any strengthening is required; but why should wound the feelings of any person. I would never wound the feeling of any person.

Q. But you want legislation for 15.

A. My point is you can raise the Age of Consent to 15 in that there is no sort of imaginable social ostracism involved but in the other case, *viz.*, the age of marriage, there will be some sort of social ostracism. Why should you have recourse to that. You may raise the age of marriage gradually in course of time.

Q. Would you like that a system of sanctions may be instituted just as in Section 195 for these cases?

A. Of course there is no harm in adopting this course.

Q. You have given in your statement six months' simple imprisonment or fine or both when the husband has sexual intercourse with his wife. Do you know that under the Hindu law if a person has intercourse with an undeveloped girl before puberty he is liable to be put to death instantaneously? What is your idea of giving only six months to a husband?

A. Of course the husband who has sexual intercourse with his wife say 8 years of age will be under the guardianship and control of his parents. It is the parents who are responsible for this.

Q. Then you are for penalising those parents.

A. Yes.

Q. Suppose when a man is married for a second time say at his 35th year to a girl at 8, would you like any punishment in that case.

A. Of course there may be extraordinary cases.

Q. You say that persons may be liable for another punishment under sections 325 and 323, Indian Penal Code. Could you not punish the husband under Section 325, Indian Penal Code? You say that he is liable to be prosecuted under that section also. May I take it that you want a cumulative punishment?

A. Yes: He will be liable for cumulative punishment.

Q. In extra-marital cases at present so far as kidnapping is concerned the age is 16. Suppose a person elopes with the girl and after two months the girl consents, would you not prefer that by the Age of Consent being raised to 18 he may be brought to book?

A. I don't think after 15, it is necessary to protect these people because these girls fully understand at 15. Of course my experience is limited to Malabar only. If it is required in Bengal you had better do it.

**Mrs. Nehru:** Is there a large number of cases where puberty is concealed amongst the Brahmans?

**A.** I know of about half a dozen cases.

**Mr. Kanhaiya Lal:** Where is the Garbhadan ceremony performed amongst the Brahmans?

**A.** It is performed in the husband's house.

**Q.** Amongst the non-Brahmans?

**A.** Generally it is performed in the wife's house.

**Q.** What about the Nambudris?

**A.** The Nambudris marry after puberty and they take their wives to the husbands' house at once.

### Oral Evidence of Khan Bahadur HAJI ALI BARAMI, Calicut.

(Calicut, 15th November 1928.)

(Vernacular translated by an interpreter.)

**Chairman:** Are you connected with a welfare centre and a school for Mohammadans?

**A.** Yes.

**Q.** Are you connected with any other social reform movement?

**A.** I am the Secretary of the Himatul Islam.

**Q.** What is that association? Is that for the betterment of Islam?

**A.** Its object is the religious and social uplift of the Muslims and Moplas.

**Q.** How long has it been working?

**A.** It has been working nearly for the last 30 years.

**Q.** How many members are there?

**A.** Between 300 and 400.

**Q.** Has this question of the marriageable age amongst the Moplas been ever discussed at any of its meetings or conferences or in any other way?

**A.** No.

**Q.** Has there been any talk about this matter between you and any other influential members of the Mopla community?

**A.** Occasionally I have had talks with them.

**Q.** About the marriageable age or about the Age of Consent?

**A.** I have talked about both.

**Q.** Amongst the Moplas do any marriages take place below 13 or 14?

**A.** In the majority of cases marriages take place after the 10th year.

**Q.** At what age do they take place then?

**A.** Generally marriages take place at 10, 11, 12 or 13. In some cases they take place at 15 also.

**Q.** When marriages take place at 10, 11 or 13, do the girls go straight to the houses of their husbands or is there any period between?

**A.** In the majority of cases they are sent immediately after marriage.

**Q.** Have you reason to believe that any consummation of marriage takes place before a girl completes her 13th year?

**A.** Very rarely it takes place.

**Q.** Then when does consummation take place?

**A.** Sometimes consummation takes place before 13 years are complete.

**Q.** Is it general or in very few cases?

A. Very rarely. In very few cases it takes place below 13.

Q. Does it take place before she has completed her 14th or 15th year?

A. I think it takes place below 14 and 15.

Q. Do you know of any girl mothers before 14 or 15?

A. I have instances.

Q. When do Mopla girls attain puberty in Calicut and in the interior?

A. After the 10th year.

Q. That is all.

A. Before the 12th and after the 10th year. I am speaking about the Mopla girls. If the girl is very healthy puberty takes place in the 10th year.

Q. How many cases have you heard of girls having attained puberty in their 10th year?

A. I can't give the number.

Q. Is that a very small number?

A. I can't say the number is small. There may be many. It is certain that below 12 almost all the girls attain puberty. There will be very few who attain puberty after 12.

Q. When marriages take place early and girls attain puberty later is there any ceremony that is undertaken before the nuptials take place?

A. There is no ceremony.

Q. Supposing a girl of 10 is married, will she be sent straight to the house of the husband?

A. Soon after marriage the girl is sent.

Q. She is not kept at the house of the mother till puberty?

A. It is the husband who goes to the wife's house, soon after marriage.

Q. Then the husband stays on in the house of the wife?

A. Generally spends a night in the house of the wife.

Q. What happens in the case of people who lose their first wife say after 25?

A. The man gets himself remarried.

Q. To a girl of the same age as his first wife?

A. Sometimes a girl of the same age or sometimes of a lesser age.

Q. Do you know of many cases of second marriages of widowers where the difference between the age of the girl and the boy is very great?

A. Marriages of widowers generally take place with girls of a greater age. The parents do not give younger girls to elderly husbands.

Q. Is it possible for a man of 30 to get a girl of 20?

A. Yes, it is possible.

Q. Widow or an unmarried girl?

A. Either a widow or an unmarried girl.

Q. Is widow remarriage allowed among Moplas?

A. Yes, both males and females can remarry.

Q. And divorce is also permitted?

A. Yes. A male can keep 4 women.

Q. But what is the practice?

A. In Malabar majority of men have only one wife.

Q. In the case of these girls that marry at 11, 12 or 13 and become mothers at 13, 14 or 15, what is the health of the girls? Do they suffer?

A. They are not generally seen very weak.

Q. Are there any cases where the girls below 14 have succumbed in their first delivery or their children have died?

A. Majority of the children die.

Q. What about the mothers?

A. Nothing happens to the mothers. In the majority of cases the children die.

Q. Is there a system of untrained midwives or do they get medical help of trained midwives?

A. Since 7 or 8 years midwives from the hospital are taken.

Q. In a few cases or a large number of cases?

A. Now, almost in all cases.

Q. In those cases where trained midwives come do you find that the children die less or in the same numbers as before?

A. I can't say whether more deaths have taken place or less deaths have taken place but delivery is very easy.

Q. Do you know of half a dozen cases of girls amongst your own near relatives or amongst your friends in whose case the wives when married were definitely of 18 or over?

A. Yes, I can say about half a dozen cases.

Q. What was the condition of those women after delivery and what about the children? Are they better off in health?

A. Their children are healthier.

Q. Is that your experience?

A. Yes, from my experience I can say so.

Q. Do you suggest that the girl mothers at 13, 14 or 15 are worse off both as regards themselves and their babies than those who become mothers at 18?

A. Girls of 18 and above are healthier. Both mothers and children after 18 are better off than below 15.

Q. Do you have any horoscopes? How do they know their ages?

A. We have no horoscopes. The date of delivery is noted in each family.

Q. Probably in accounts?

A. It will be seen in accounts also. If any expenses are incurred at the first child these expenses will be entered in the accounts.

Q. Is there any annual ceremony about the birthday of each boy and girl in the family?

A. No.

Q. Is it in each family that the birth is noted or is it only in your family?

A. The poor classes do not.

Q. Would you say that as regards the marriageable age there is any difference between the poor Moplas and the better class Moplas?

A. There is not much difference. If there is any difference it is that the rich marry earlier.

Q. Amongst those richer classes do these girl mothers below 15 suffer?

A. I don't have any instances in which they have suffered. After two or three deliveries they become very unhealthy.

Q. Do you believe that the weakening of these girls after two or three deliveries has anything to do with the initial delivery being at 13 or 14?

A. Unhealthiness comes only on account of the early delivery in the first instance. In Malabar majority of women deliver almost every year. I have known many instances like that.

Q. What is the case generally?

A. Generally delivery takes place once in two or three years. Deliveries after one year are not uncommon.

Q. Is the present law standing at 13 known in the community?

A. It is not known to the community.

Q. Is it known that connection below 12 is punishable with 10 years?

A. No, it is not known.

Q. Do you consider it advisable that Government should enact a law by which consummation of marriages will be postponed till 14, 15 or 16?

A. I am of opinion that it is necessary.

Q. Are there any cases of consummation in your community?

A. There are not many cases of consummation.

Q. Do these girls of the richer class do any physical labour in their houses?

A. They do physical labour in their houses. Though they have servants yet they prepare meals for the husband and besides cooking they do other domestic work.

Q. If you like a law fixing the Age of Consent, what will you put it at?

A. When the 14th year is completed.

Q. There is another remedy suggested by some and that is that marriages should not take place below a certain age. Would you like that?

A. Marriage in the Mopla community means joining the husband and the wife. But there is a ceremony called Nikah which can be celebrated at any earlier age, 6 or 7.

Q. Supposing there is a law of marriage, that is to say, Nikah, would you like a law of that nature?

A. It is against my religion to fix an age for Nikah.

Q. Supposing we fix the Age of Consent at 14, how would you provide for the detection of the cases where marriage takes place when the girl is 10, 11 or 13?

A. When the law is enforced it won't take place.

Q. How is the law to be enforced? It is a secret thing. How are we to know that consummation has taken place?

A. When there will be a delivery it will be known.

Q. Will there not be many cases of girls of 11, 12 and 13 where connection may take place and there may be no children?

A. If the husband sleeps in the room of the wife it can be presumed that there has been consummation. Consummation takes place only after the marriage and not after the Nikah.

Q. Do you mean to say that the result will necessarily be a child and therefore it is liable to detection?

A. We can presume that there has been cohabitation when the husband and the wife sleep in the same room.

Q. Supposing the law is enacted will your community pass a resolution that no consummation should take place below 14?

A. Yes, it will pass a resolution.

Q. Will a panchayat appointed from among the Moplas be willing to report such cases?

A. Their objection is to the performance of the Nikah and not to the performance of marriage. If a panchayat is appointed they will be willing to report such case.

Q. If a law is enacted that no consummation should take place below 14 do you think that the girl's father would not allow the boy to go to the house of the wife?

A. The husband cannot go to the house without the consent of the parents of both sides. Unless he is invited the man cannot go to the house of the wife. Even after the marriage the man cannot see any other woman except his wife when he enters the house.

\* Q. Is there a system of dowry among the Moplas?

A. In the majority of case it is given. It is settled at Rs. 230. In the case of middle class men it is fixed at 200.

Q. Is it a fact that richer people have to pay very heavy dowries?

A. In North Malabar it is the practice. Here it is not.

Mrs. Nehru: Is this dowry which is fixed at Rs. 230 without regard to the position of the man?

A. It is not the practice to insist in the case of poor people.

Q. What is the idea according to which it is fixed?

A. Persons of a moderate status give Rs. 200.

Q. Is it binding?

A. There is no such binding that Rs. 200 should be paid. Whatever dowry the parents can pay, they pay.

Q. Is any monthly maintenance to the bridegrooms given by the girl's parents?

A. That is the practice in Kalavon and Talichery. In Calicut it is not the practice.

Mr. Mitra: You say fixing the age for marriage is against religion. Can you give us any reference to that effect?

A. According to religion Nikah can be performed at any age and there cannot be any restriction.

Q. Have you heard that in Turkey polygamy is now prohibited?

A. I have not heard.

Q. Do you know that according to Islamic law the punishment for adultery is stoning to death and it is not applied in this country?

A. Yes.

Q. And there are many other things in regard to which many laws have been passed in India and other Islamic countries which have not been provided in Koran and other Islamic sources of religion?

A. There may be instances in which different laws are made which are not provided in Koran.

Q. According to Islam law of Registration of Documents and Transfer of Property is not permitted. Do you consider these laws to be against religion?

A. They are.

Q. There is nothing in the Koran or Hadis that there should not be a law fixing the age of marriage. There is no such restriction. Why do you think that it will be against the Islamic law?

A. According to religion Nikah can be performed at any age.

Q. Are you in favour of law fixing the age of consummation?

A. I support the proposal that the Age of Consent should be raised to 14 by legislation.

Q. Is not the same freedom extended in regard to consummation?

A. The same freedom is extended so far as consummation is concerned.

Q. Then why do you think that in one case it will be against religion and in the other case it will not? Do both not stand on the same footing?

A. For the performance of the ceremony of Nikah the consent of the father of the girl is required and if the father is on the death-bed even then he will perform the ceremony. In such cases if restriction is imposed it will be too hard. The right of performance of Nikah should not be restricted.

Mr. Sháh Nawaz: Does the system of joint undivided family prevail amongst the Moplahs?

A. There is "Tharawad" in North Malabar but not in Calicut. Tharawad means that the children have no right but the nephews have the right.

*Q.* Are you bound by Tharawad system or any other system of law?

*A.* I am a descendant from father to son.

*Q.* Do you observe Mahomedan law or any custom in respect of law of inheritance or any custom?

*A.* I observe Mahomedan law.

*Q.* Is the Tharawad custom not against Mahomedan law?

*A.* Yes: it is against the Mahomedan law?

*Q.* And also is it not against religion?

*A.* Yes. But in North Malabar they do against their religion but not here.

*Q.* Amongst the Moplahs do the first cousins marry or not?

*A.* Yes: I myself have performed a marriage.

*Q.* Is it observed in North Malabar also?

*A.* In North Malabar also such marriages take place.

*Q.* Is the consent of the girl when she is 10 or 12 really taken before she is married?

*A.* The girl's consent is not obtained. It is only the father's consent that is obtained.

*Q.* Don't you think that the consent of the girl when she has attained puberty is necessary according to Mohamedan law?

*A.* When the father is alive it is not essential that a girl's consent should be obtained.

*Q.* Do you mean to say that in the absence of the father or grandfather you have the right to marry the girls at any age?

*A.* Yes.

● *Q.* Would you give this right to uncles in the absence of the father and grandfather when they are dead?

*A.* If the father and grandfather are not alive and if the girl has attained puberty, her consent should be obtained before marriage is performed.

*Q.* Would you give this right of marrying her to any one to marry the girl before and after puberty?

*A.* The marriage cannot take place. If it takes place it is null and void. In the absence of the father and grandfather the girl cannot be given in marriage before puberty.

*Q.* And after puberty?

*A.* After puberty the brother if one is alive selects the husband and tells her that he has selected a husband for her and should obtain her consent.

*Q.* Don't you think that the rights of the father and grandfather are sometimes abused to marry their young girls?

*A.* I haven't come across any instance where the father or the grandfather has abused such rights.

*Q.* Do you think when the girls are married at an early age, i.e., before puberty, by the father and grandfather are they happy always?

*A.* Yes: They are. They live happy.

*Q.* Are there any cases in which the uncle of the girl has got her married before puberty when the father and grandfather are not alive?

*A.* The uncles have no right to get her married if the father or the grandfather or the brother is not alive.

*Q.* Would you like to have the minimum age fixed at about 14 for Nikah?

*A.* It will be very difficult to carry that out.

*Q.* Would people agitate?

*A.* Yes.



**Q.** Supposing we were to make exceptions in certain cases, will you be satisfied then?

**A.** There will be objection for that also.

**Q.** Is it usual that the father or in the absence of the father the grandfather marry the girls before arriving the age of puberty?

**A.** Yes: It is usual. In many cases nikah is performed before the girl has attained puberty by the father.

**Q.** Why the father does it? Does he do it in the interest of the minor?

**A.** It is in the interests of the daughter that nikah is performed.

**Q.** Do you know that the Mahomedan law is always for the benefit of the minor?

**A.** Yes.

**Q.** Are the Moplahs largely converts?

**A.** No: They are not.

**Q.** Have the Moplahs taken this custom from the Brahmans of marrying their girls before the age of puberty?

**A.** According to the religion it can be performed at any time. When the father is alive there is no rule that the girl's consent should be obtained for the performance of the nikah at any time.

**Q.** Do you understand that as a rule the girl should be married after she has reached the age of puberty and her consent must be taken?

**A.** Yes: In certain cases of extraordinary circumstances the father or the grandfather can marry the girl.

**Q.** What do you understand by the Mahomedan law?

**A.** According to Mahomedan law, the father of the girl can take any person as the husband at any time.

**Q.** That I know. The Mahomedan law does not say that generally the father must do it except in extraordinary cases?

**A.** The father alone has the right to select the husband for the girl.

**Q.** But why should the father exercise generally this extraordinary power?

**A.** It is on account of his interest to give his girl in marriage to a respectable person.

**Q.** Do the Moplahs always find a respectable person?

**A.** Yes.

**Q.** But can you not wait till the girl arrives the age of puberty?

**A.** Supposing the father thinks that the girl should be married to a particular man, he will have to perform the nikah ceremony before that.

**Q.** Is this right to be exercised in extraordinary cases?

**A.** Even after the girl attains puberty the choice rests with the father and no consent of the girl is taken. Of course her consent is subsequently taken. In the presence of the father the girl has no right to select her husband.

**Q.** Is this a custom amongst the Moplahs?

**A.** Yes.

**Mr. Bhargava:** In the absence of sons and daughters would a widow succeed to the entire property?

**A.** The widow will get annas four per rupee.

**Q.** It means it is according to Mahomedan law.

**A.** Yes.

**Q.** What is the age of puberty amongst Nairs?

**A.** No: I don't know.

**Q.** Do you think that the age of puberty amongst the Moplahs comes on earlier than other classes?

A. I cannot say that.

Q. Can you give any reasons why puberty comes at this early age amongst the Moplahs?

A. It is said in the religion that a girl attains puberty after she completes the ninth year. But I cannot say why it is so there.

Q. If puberty comes at the age of 11, do you want three years to elapse before the girl is allowed to consummate?

A. Yes.

Q. What is the usual difference of age between the boy and the girl when they are married at the time of nikah?

A. There will be a difference of 8 to 10 years.

Q. Don't you think that if there is such a big difference, and unless marriages are prohibited the age of consent law will never work because the husband will always want the wife?

A. There wouldn't be any such desire amongst Moplahs.

Q. Then how would the age of consent work?

A. Before the consummation takes place, the husband would never send for the girl at any time.

Q. So you say that the parents want to see their girls settled in life before they are dead and as such the nikah should be performed; and there are no other difficulties.

A. There will be necessity for the performance of the nikah as there are no sufficient number of males in the community. So the father of the girl is anxious to have a husband for his daughter and as such nikah must be performed. Government can enact a law that there should not be consummation till a certain period but Government has no right to bring a law that a ceremony shouldn't take place.

Q. If the age of consent is raised to 15 or 16 will it work?

A. It will cause a great hardship but it will work. The difficulty is that a girl cannot get out of the house until the consummation takes place after nikah. After consummation there is no purdah. A girl can go out till 9 years; after that she cannot go out of the house until there is consummation.

Q. A girl of 14 or 15 who has not been consummated will not see the male members of her house?

A. She will remain in a corner of the house and will not come out.

Q. Even women of that house will not be allowed to see her?

A. She will not be allowed to see outside women.

Q. She will not see even her father and brothers?

A. Generally girls do not make their appearance before their father and brothers but there is not much objection.

Q. Does this apply only to the rich families of Moplas or all Mohamedans in Calicut?

A. It applies to the majority of Moplas. People will welcome it up to the age of 14.

Mr. Kadri: Do you know that a Mohamedan girl has option to repudiate marriage on her attaining puberty if she does not approve of it, provided the marriage has not been celebrated by her father or grandfather?

A. Yes.

Q. From that can we not infer that the spirit of the law is that no marriage should take place before puberty so that there may be no occasion for repudiation?

A. It cannot be presumed that the spirit of the law is that nikah should not be performed before a girl has attained puberty.

**Q.** Is it not necessary that there should be very few cases in which a girl should have to exercise such an option?

**A.** There is no such instance in Malabar.

**Q.** At the time of nikah are two witnesses and one vakil present?

**A.** No. Nikah is performed in the presence of Kazi and two witnesses.

**Q.** At the time of nikah is there a vakil present whose function is to ask the girl whether she consents to this marriage and is agreeable to the dowry proposed?

**A.** When the father is present there would not be any vakil. In the absence of father, the brother performs the ceremony. In the absence of either of these the consent of the girl is obtained by the relations of the father.

**Q.** Do you not think it would be advisable to have as little time as possible between nikah and consummation?

**A.** There is no objection, but, there is no advantage. Except in cases where necessity arises for the performance of nikah, nikah will be performed near the age of consent.

**Q.** If we provide for exemptions in certain cases, would it be acceptable?

**A.** There would not be any objection.

**Q.** If there is no marriage law but there is the age of consent law, there are chances of prosecution of the husband in case of his cohabiting with his wife and this would lead to estrangement. Why not eliminate those chances by prohibiting marriage?

**A.** There would not be any breaking of the nikah if consummation takes place before the prescribed age and the husband is prosecuted, because the law would be considered responsible and not the wife.

**Q.** Would not the husband divorce her?

**A.** The wife has no right to give up the husband according to the Mohamedan law.

**Q.** There will be some complaint either by the wife or by the father or by the panchayat on behalf of the wife.

**A.** In such cases there may be divorce by the husband but until that divorce is pronounced there will be no estrangement.

**Q.** If we fix the age of marriage as the same, as the age of consummation there will be no necessity for divorce, is it not?

**A.** There will be objection to the fixing of the age for nikah. Personally I am in favour of it, but, the general public will object to it. Except in cases, where there is exceptional necessity, that nikah should be performed at an early age, I am personally of opinion that there should be no difference between nikah and marriage.

**Q.** The Health Officer's report shows that the number of deaths on Calicut among the Mopla girl mothers from child-birth between 15 and 20 is much larger than in other communities though the Mohamedan population is one third of the Hindu population?

**A.** I doubt the accuracy of the report; I do not believe it.

**Q.** Will the age of 14 give protection to the girl?

**A.** Yes.

**Q.** Are Kazis appointed by the Government?

**A.** Yes, on the recommendation of the District Magistrate. In most cases marriages are celebrated in the presence of Kazis but anybody can do it.

**Q.** Do the Kazis keep any marriage registers?

**A.** Yes.

**Q.** What are the entries in the register?

A. I have not seen the register but at the time of nikah the names of the girl, father and grandfather are entered but the age of the girl is not given.

Q. Is dowry entered?

A. No.

Q. If we make it obligatory on the Kazi to enter the age of the girl also, would it be advisable?

A. Yes.

Q. Would it not be advisable to have such marriage registers for all communities?

A. Yes.

Q. Who should keep these registers—the municipality or local boards?

A. The priest who performs the marriage should maintain the register and each community should have a separate register.

Q. Are there unmarried girls of 20 in the community?

A. Very seldom.

**Written Statement, dated the 21st August 1928, of Mr. K. R. KARANT, B.A., LL.B., M.L.C., Pleader, Mangalore.**

1. No.

2. Though 16, the proposed age, may be desirable from the medical point of view it is high taking into consideration the existing conditions in the country. I do not see any need for the very technical and nice distinction in fixing the age for the marital offence and another for the non-marital. An uniform age of 14 may be fixed for all. The proposed ages of 13, 14, and 16 will work great hardship in actual enforcement.

3. Crimes of seduction and rape are not frequent in this part of the country. Cases of sexual intercourse by the husband with his wife under 13 and others with women (mostly prostitutes) under 14 are, however, not quite uncommon. Such cases do not come to the courts and the public is quite ignorant of the law. In fact the age of consent as now prevailing has not received any publicity, quite unlike Sarda's Bill which has become widely known.

The amendment of the law has not had the effect suggested as the law both before and after are equally unknown to the people as a whole excepting probably the criminal lawyers.

To make the law effective I would suggest the following:—

(1) To pass Sarda's Bill as amended by the Select Committee on it. Nothing less will do as it is impossible to stop sexual intercourse between husband and wife when the latter is under 14 as long as marriages under that age are permitted and girls (in this part of the country at any rate) attain puberty before that age.

(2) By giving wide publicity to the law on the age of consent.

4. (1) No. As I said the people are ignorant of the law.

(2) Not to any considerable degree.

(3) No. No effect whatever.

I pin my faith to eradicate the evil largely on the passing of a law penalising marriage for boys under 18 and for girls under 14 in the transitional stage, and to 21 and 18 respectively after sometime.

5. Between 12 and 14. Not much difference between the various communities.

6. (1) Not common. But the number is increasing in the case of educated boys marrying young girls and not having enough patience to wait till puberty.

(2) More common. In fact the boys, the educated are the worst in this respect being largely fed up with the sensuous fictions and films of the west, seldom wait after puberty.

(3) If the girl attains puberty before 13 no time is lost in consummating. None of these cases come to court.

7. Yes. Amongst the Brahmin classes in this district early marriage is a social necessity. Social usage of the past and false religious texts to suit and glorify it have made prepuberty marriage a matter of religious injunction. But whatever be the noise of the vociferous pandits and the orthodox they will quietly submit to the change the moment the law forbids it. The true texts of the vedas appear to commend (I am not a scholar) consummation only after a girl menstruates 36 times after puberty, i.e., a period of 3 years, a very wholesome rule. The penalty for breach now is excommunication of the father and the girl from the caste. Though there are cases in which for want of a suitable bride the limit is crossed and the matter is an "open" secret I have not known of a single case of excommunication. It is but one instance of the society bowing to the inevitable.

8. Yes. In the cases of Brahmins when the Seemantham ceremony takes place after the 7th or 8th month after conception takes place.

9. No. Most of the girl-wives are physical wrecks as before 14 not only is the marriage consummated but a child also is born. I consider that 3 years after puberty is a proper period which should elapse before consummation. The ideal would be 18 years but as it is always difficult of achievement I should think that 16 is a proper age for consummation. But even that, I am afraid is hard to obtain in actual practice.

10. Sixteen years.

11. As I have already stated the girl-wives are physical wrecks. They are mothers of 3 to 4 children before they are even 20. As this is the general rule and not an exception I do not think it necessary to give instances.

12. Yes. It is largely responsible in the higher castes and lack of food and nourishment in the poorer classes.

13. No. Public opinion on the question is *nil*.

14. Yes. Though it is not impossible to change the view, early to wed, early to consummate and early to beget children is their fond ambition and early to die is its practical result.

15. No. Cases are not known here. Uniform age of consent at 14 and penalisation of marriages below that age is the most practical thing for the time being.

16. *Vide* answer to question No. 15.

17. I suggest a common age for both, but a lighter punishment in the case of marital offence. The present punishment may be retained trusting the courts to deal leniently in the case of the marital offences.

18. In both cases trial in camera.

19. *Nil*.

20. Age of consent at 14 and penalising marriages before that age would be most effective. Public opinion as such may not desire either. But I would do the right thing without earing for public opinion when I find it is based on ignorance and prejudice and when I know that it will submit to the change when it comes.

21. Both. But as progress and social reform are going at a snail's pace I am for a penal law without delay.

**Oral Evidence of Mr. K. R. KARANT, M.L.C., Mangalore.**

(Calicut, 15th November 1928.)

*Chairman:* Have you been at the bar at Mangalore?

A. Yes, for the last 10 years.

Q. Are you a member of the Madras Legislative Council?

A. Yes, I represent rural non-Mohamedan constituency.

Q. Are you aware of the conditions in village life in Mangalore?

A. Fully well as I come from a village myself.

Q. Are you connected with any social reform movement in Mangalore?

A. I am a member of the Arya Samaj.

Q. Is Arya Samaj largely represented there?

A. During the last five or six years it is carrying on its work.

Q. Are you carrying on any propaganda work in connection with this question?

A. No.

Q. For the present you would have a law penalising marriages and the age of consent both at 14?

A. Yes. I do not lay much emphasis on the age of consent because if you allow marriages below that age it is practically a dead letter. I would lay greater emphasis on penalising marriages below a certain age.

Q. Would you have a law of marriage in any case?

A. Yes.

Q. You think the law of the age of consent would be of no use?

A. No. I asked a criminal practitioner at Mangalore and he said that he has not known of a single case coming to court though such cases are bound to occur.

Q. What caste do you belong to?

A. Dravid Brahman community.

Q. Are they called Havic?

A. Havic is a sub-section but they are a section of Dravidians.

Q. Are there classes of people called Iyers, Patars?

A. Very few. Dravid Brahman preponderate in Mangalore.

Q. Are there any Saraswats?

A. Yes, Dravids is the largest community. They have got 6,000 votes out of 25,000 because they are land owning community.

Q. What is the number of Brahman in Mangalore as compared to other population which are non-Brahmans?

A. I am not able to say.

Q. I think you would admit that Brahman are not a very large percentage as compared with non-Brahmans?

A. Yes.

Q. Amongst all Brahman is there child marriage below 13?

A. Yes, because they believe that they have to marry their girls before puberty.

Q. What about other classes?

A. There are Saraswat Brahman who are very progressive. Though this was the rule with them some years ago but now they marry their girls at 14, 15 or 16.

Q. How long ago they married early?

A. For the last 10 or 15 years they are marrying at an advanced age.

Q. Are there no Nambudris in Mangalore?

A. In some parts of the district there may be some families.

Q. Besides Dravid Brahamans what are the other communities among whom pre-puberty marriages exist?

A. There are 3 classes of Brahamans—Dravids, Saraswats and up-Saraswats. The last are mostly a commercial community. They have also pre-puberty marriages.

Q. Amongst non-Brahmans I believe there are all post-puberty marriages.

A. Mostly but during the last few years they are trying to imitate the Brahamans.

Q. Which are those castes?

A. Bunts and Bilavers; they correspond to Thias of Malabar.

Q. Generally among them it is post-puberty marriage?

A. Yes, except a small section who are following the Brahamans. Their age of marriage is 16, 18 or even 20.

Q. What is the usual age of marriage in your part of the country?

A. Between 12 and 14.

Q. Are there any cases of concealing puberty?

A. Yes. When they cannot find a suitable husband and the social injunction being so hard, naturally they have to conceal.

Q. Do you hear of lot of such cases?

A. Very few.

Q. Do you know how they manage about pollution in the house? Do you think they keep these things secret in the house?

A. I do not know.

Q. Supposing the age of consent by itself was a law and the age was raised to 16, would you agree to that?

A. I have no objection.

Q. Do you think at any age the age of consent would be effective?

A. It will be ineffective whatever the age may be.

Q. Between 13 and 16 there are very many chances of the girl becoming a mother while before 13 chances of motherhood are very small. So will there be no chance of more cases coming to light?

A. Yes.

Q. Don't you think to that extent it will be effective?

A. It may be but I do not think anybody would take the trouble to bring them to light. Now the age of consent is 13 and yet consummation takes place at 12 but people are absolutely ignorant about it. In a few cases even births take place before 13 but no notice is taken. In the villages the age of consent law is unheard of.

Q. But it may be that in the villages a large proportion is not a Brahman population therefore in their case 13 and 14 does not matter.

A. There are a considerable number of Brahamans in villages.

Q. Among them also does the same custom of pre-puberty exist?

A. Yes.

Q. In answer to question No. 6 you say that educated boys are the worst in this respect and they seldom wait after puberty. Is that really within your sphere of experience?

A. So far as I know it is quite correct.

Q. It is not a mere heresay?

A. No. I know within the last few years in the case of educated boys consummation ceremony seldom takes place. In our community it is necessary to have consummation ceremony but that is more observed in the

breach in their case. It is called Kalash grahan. This ceremony is going into disuse because consummation takes place early.

*Q.* Where does this ceremony take place?

*A.* When the girl attains puberty it is performed. It is generally in the father's house.

*Dr. Beadon :* What would be the age of boys who consummate?

*A.* I cannot say but it might be between 15 and 20 and the girls are 13—15.

*Chairman :* Can you suggest any remedy by which orthodox opinion will have a free choice as regards the marriageable age of the girls but consummation will necessarily be prolonged?

*A.* Except by the age of consent I cannot suggest anything but that would be largely effective.

*Q.* Therefore in order to put off maternity beyond a fixed age the only method that you suggest is to make the marriage law? Is it so?

*A.* That seems to me to be the only practical thing.

*Q.* Supposing there is a marriage law fixing the age at 12 and the age of consent law is 15; how would that work?

*A.* That would serve the purpose. The age of marriage must be sufficiently high otherwise it is of no use.

*Dr. Beadon :* You say in answer to question No. 11 that girl wives are physical wrecks and as a result of 3 or 4 deliveries they develop tuberculosis. Can you give us any cases which have come to your notice in which girl mothers at their first child birth suffered?

*A.* Apart from tuberculosis they are very weak. Except that I cannot name any particular disease.

*Q.* Have you come across any cases in which girl mothers may have died during delivery?

*A.* No.

*Q.* What about their children; are the children healthy on the whole?

*A.* Naturally they are weak. I cannot give any particular instances. From all that I have seen they are generally weak.

*Q.* Do you think these Brahman girls are weaker than other girls who marry late?

*A.* Yes, they are distinctly weaker.

*Q.* Are the other girls of the same financial position or are they poorer?

*A.* They are poorer.

*Q.* Do you think it is because non-Brahman girls work in the fields?

*A.* Yes, and Brahman girls do not generally. Some do work but not in the same way or to the same extent as non-Brahmans. They generally look after the household affairs.

*Q.* Is there a high infant mortality in your district?

*A.* It is fairly large, but I have not got figures.

*Mrs. Nehru :* In paragraph 2 you call the change brought about in the age of consent with regard to marital cases as a nice technical change, may I know why you call it technical?

*A.* It is very difficult to distinguish between 12 and 13.

*Q.* Why are you in favour of having the same age for both marital and extra-marital?

*A.* It will be more easy for actual work because instead of having a separate age the object is more to see that there is no physical degeneration of that type. Therefore it is better to have the same age for both.

*Q.* Do you recognise any distinction between the case of a husband and that of a stranger?

*A.* I do not think it is present in the minds of many husbands.



*Q.* In the case of a husband it is only the physical condition of the girl and the children that is at stake but in the case of a stranger the girl's whole life is ruined and her respectability and social status is at stake. Do you recognise this difference between the husband and a stranger?

*A.* I have put it more because it would be difficult in actual practice for convictions if we have 2 different ages.

*Q.* Don't you think a girl in extra-marital cases requires more protection?

*A.* You may have it at 16. I do not object to that but I say in actual practice it will be very difficult to distinguish between cases of 14 and 16.

*Q.* If it is 18 will that be easier?

*A.* That is too high for practical purposes.

*Q.* I again want to know your reasons for having the same age for both?

*A.* The only reason that guided me was that it would be easy in practice to have the same age.

*Q.* But there is no question of the two ages clashing as they are 2 different offences?

*A.* I do not think there is difference between the two.

*Q.* Don't the two cases differ radically?

*A.* Morally they may be different but if you simply have the view point of preventing degeneration there is no difference between the two but from the moral standpoint the extra-marital cases should be treated differently.

*Q.* Considering that point of view would you put a higher age for extra-marital relations than for marital relations?

*A.* You may put it at 16 but it will be rather hard for detecting cases.

*Q.* What do you think about 18?

*A.* It is too high. I can only say that as things exist at present 14 and 16 would be the most appropriate age for the time being. There is no use in having a very high age if we cannot enforce it in practice.

*Q.* Why do you think we cannot enforce it in the case of extra-marital cases; what difficulties would arise if we fix it at 18?

*A.* I cannot give any reasons but so far there has been no case in my district. Practically such cases have been negligible.

*Q.* If it is considered to be enforceable you will have no objection to raising it to 18?

*A.* No.

*Q.* In paragraph 3 you say that sexual intercourse by the husband with his wife under 13 and others with women (mostly prostitutes) under 14 are, not quite uncommon, with regard to marital relations, I would like to know which communities particularly have consummation before 13?

*A.* That is the community to which I belong, i.e., the Dravid Brahmins, and also the Gowd Saraswats. Among the Saraswats it is not common.

*Q.* You mean to say that cases are not uncommon before 13, but they do not come to court.

*A.* I am not aware of any cases coming to court. In the case of dancing girls at least I know they have consummation before 14, the age fixed for extra-marital cases; but they do not come to court.

*Q.* Is there a Prostitution Act here?

*A.* I am not aware of any such Act.

*Chairman:* In Mangalore there is a large section of the dancing community?

*A.* I cannot say that it is a large number, but a community of dancing girls as such does exist. They are called Sulais.

Q. You say in paragraph 7 that penalty for post-puberty marriage is excommunication. Have you come across any case of excommunication like that?

A. No; because technically no girl is supposed to be married after puberty. But there are some cases where girls are married after puberty, but the fact of the puberty is concealed.

Q. Does excommunication take place in such cases?

A. No.

Q. Then what is the penalty for late marriages?

A. There is penalty, but the community generally winks at the thing. But if some social reformer says openly that he will celebrate the marriage of his girl after puberty, I am sure he will be excommunicated.

Q. You say you are an Arya Samajist. At what age do the Arya Samajists marry their girls?

A. There is no community as such. Their number is very small. In cases where Brahmins are Arya Samajists also, they go on doing things as they were doing them before. Their being members of the Arya Samaj does not affect their social customs to that extent.

Q. How many years ago did the Arya Samaj movement begin here?

A. Six years ago.

Q. You say that the Seemantham ceremony takes place after the seventh or eighth month after conception. Is this ceremony the same as consummation?

A. Consummation is a separate ceremony. It is called Kalash amongst us. (The Seemantham ceremony takes place in the seventh or eighth month after conception.)

Q. You say that there are girls who have become mothers of three or four children before they are 20. Have you personally known of such cases?

A. My own wife must have been less than 20 when she had her third child.

Q. Whom do you refer when you say that it is not impossible to change the view early to wed, early to consummate and early to beget children?

A. Mostly to all Brahmin communities in South India.

Q. Is there no change in the outlook of Brahmin women on this question?

A. In South India the Brahmin woman would like to marry her children young.

Mr. Mitra: You are for fixing the age of marriage at 14 as the minimum. What should be the punishment for the infringement of the law? Should it be fine only or both fine and imprisonment?

A. It can be both or either, it does not matter much. Once there is a law people will be sufficiently on their guard.

Q. In hard cases would you have exemption?

A. No.

Q. You think that 18 would be the ideal age for consummation, but as a first stage you would have 16 now. Do you think that there would be opposition from the orthodox community even for 16?

A. Yes.

Q. As regards extra-marital cases do you not feel that the orthodox community will not be anxious to oppose it?

A. No; they will not oppose it.

Q. I think you realise that frequent changes in the penal law are not very much desirable, if that can be avoided. If you think that there will be no hue and cry if the age is raised, would you approve of 18 in extra-marital cases?

A. Personally I have no objection, but I do not know whether it would work in actual practice.

Q. In paragraph 7 you say that early marriage is a social necessity amongst the Brahmin classes. If there is an age fixed for marriage, do you not think that people will put that forward as an excuse for having late marriages?

A. I think so. Really the orthodox people will not be so troublesome as they appear to be now. They will submit to the change when it comes.

Q. If we cannot have a marriage law for any reasons, then would you still be in favour of a consent law in marital cases? Now very few cases come to courts. Supposing the punishment is restricted to fines merely, the case is made compoundable, and there is a special court to try such cases, do you think that more cases are likely to come to courts?

A. They might come.

Mian Mohammad Shah Nawaz: What are your objections for fixing the minimum age of marriage at 16?

A. Because there will be much opposition to it. The chief point in favour of 14 is that it will to some extent please the orthodox people if they can be pleased at all. Secondly if you have 14 in the law, people with advanced views will take advantage of it and would automatically raise the age to 16.

Q. Why do you oppose the fixing of the age of consent at 16?

A. I do not oppose it; I merely said I doubt if it can be enforced in actual practice.

Mr. Bhargava: May I take it that so far as the age of consent in marital cases is concerned, you think that the physical welfare of the girl should be the primary consideration?

A. I have in mind the welfare of the nation as a whole.

Q. And would you not care even if public opinion is against it?

A. No, I will not care.

Q. Would you have both consummation and marriageable ages at 16?

A. I would personally fix the age of marriage at 18 for girls and 25 for boys. That would be the ideal age.

Q. Do you realise that the opposition so far as this legislation is concerned will be from the Brahmins?

A. I do not know about Muhammadan opinion. But in South India the opposition will be from the Brahmins.

Q. If you fix the age of marriage at greater than the puberty age will there not be dissatisfaction?

A. If the age is fixed at 16 or 18 surely there will be dissatisfaction. But if the age is fixed at 14 there will not be so much dissatisfaction. The age of puberty of girls now is generally about 14.

Q. So at present when girls are married at 14, there is no ostracism.

A. I know of no cases in which there has been ostracism.

Q. Supposing the age of marriage is fixed, then people will have to marry and ostracism will have to go?

A. Yes, it will go.

Q. And the only dissatisfaction will be in the nature of protest meetings.

A. I am not afraid of protest meetings, but I think that 16 would be too high considering the communities who are very ignorant.

Q. Supposing there is a breach of the law of the age of consent within 14 and 16, to whom would you give the right of complaint?

A. I have not thought about this question.

Q. As the law is at present, any person can move the law. Do you think that in view of the fact that the relatives are generally reluctant to involve the parties, would you leave the law as it is?

A. Yes; it must be open to anybody to complain.

Q. Do you not think that there is no necessity for further safeguards? Are not the present safeguards contained in sections 250, 211 and 282, sufficient?

A. I think it should be enough. We have not had such cases in the past, and therefore I cannot easily visualise how it will work in the future.

Q. Would you make these cases cognisable by the police? At present the law is that between 12 and 13 the cases are non-cognisable, and before 12 the cases are cognisable by the police?

A. I cannot say much on this question.

Q. You say that in Mangalore there are Dravidian Brahmins, the Gowd Saraswats and others. Do their customs differ so far as marriage is concerned?

A. They do not intermarry, but otherwise their customs are more or less the same.

Q. What is it in Calicut?

A. I know about Aiyars in Calicut, and they marry their girls before puberty.

Q. So far as the other customs are concerned, by what law are you governed?

A. We are governed by the Mitakshara law as in other parts of India.

Q. Do you think there will be opposition to this legislation from castes other than Brahmins?

• A. No.

Q. Do you think it will be 2 per cent. of the population from whom there will be objection?

A. Yes; it is a very small section. Others will submit to the laws without knowing them. We had recently the Religious Endowments Act. It was much opposed at first, but once it was passed, people submitted to it.

Dr. Beadon : Is that law being enforced now?

A. Yes; it is being enforced.

Mr. Bhargava : With reference to question 16, supposing at the age of 16 or 18 it is easier for medical opinion to find out the age of a girl than at 14, would you raise the age?

A. I am not sure that medical opinion would be able to fix the age definitely.

Q. If the age is increased do you not think that it will be easier to secure convictions?

A. It might be a little easier.

Q. How can you say then that if the age is raised to 18 in extra-marital cases the law will be difficult to work?

A. I have not much experience of these extra-marital cases; people do not generally know that there is such a law as the age of consent at all.

Q. Supposing a stranger has cohabitation with a girl under 14, what will happen?

A. Mostly people will keep such things a secret. The ordinary cases are where men keep girls under 14 with their consent.

Q. If men keep girls under 14 with their consent, is it not a very fit reason why the age of consent in extra-marital cases should be raised?

A. I have already said it might be raised.

Mr. Kadri : You say that it is not impossible to change the view early to wed, early to consummate and early to beget children. Do you think that raising the age of consent is one of the methods by which this view can be changed? Do you think that that will be a step in the right direction?

A. It might be one of the steps, but a better and a practical method would be to fix the age of marriage.

Q. Have you any experience of the way in which births are registered in this part of the country?

A. I know in the villages in my district the village headman keeps the registers of births and deaths. In the case of deaths the age is not correctly reported, otherwise it is kept in a satisfactory manner.

Q. Is there an obligation on the parents to report births?

A. I am not quite sure about that.

Q. Do you think that there should be such obligation?

A. It is quite necessary at least for statistical purposes.

Q. Are these registers open to inspection by the public?

A. In villages I do not know whether they are, but in the municipalities they are.

Q. Do you think that a certificate might be given at the time of the registration of the birth?

A. They are being given now.

Q. Are these birth registers periodically inspected by the revenue authorities?

A. They are. But in the villages they are not very careful about the age in the case of deaths.

Q. In the case of birth registers, have you a column in which the names could be subsequently entered?

A. The names are given after 10 or 15 days of the birth of the child and the names can then be entered.

Q. Would you make it obligatory on the parents to report the name of the child as soon as it is given?

A. Yes; it can be done.

Q. There is a proposal that we might have registration of marriages and a register maintained in which the names, the age and other particulars of the marrying parties might be given so that proper evidence might be available in cases of breach of the law. Would you be in favour of such registration?

A. I do not think it is bad.

Q. On whom would you place the duty of maintaining these registers? Would you place it on the same agents who are maintaining the death and birth registers at present?

A. More skilled agents might be better. Village headmen are not generally sufficiently literate, and it would be therefore better to have more skilled agents because you are utilising this for penal purposes.

Q. Would you place the duty on the Tahsildar?

A. The Tahsildar would only be at the headquarters.

Q. Do you think that the sub-registrars who register documents at present would be suitable persons?

A. My point is that you should make it as easy as possible for the persons to report. Generally the sub-registrar's offices are far away from the villages. I would therefore suggest that the village headmen might be supplied with prescribed forms which might be filled in by persons who report. Copies of the return might be kept by the village headman and it can be sent to the Tahsildar, and the Tahsildar might maintain a register of all such returns.

Q. Would you place the obligation of reporting on the parents or the priests?

A. I would place it on the parents.

*Mr. Kanhaiya Lal:* You say that the Vedas appear to commend consummation only after a girl menstruates 36 times after puberty. To what Veda do you refer?

A. I am referring to page 93 of the English *Satyartha Prakash* where there is a quotation from Manu, Chapter 9, Verse 90, and another quotation from *Susrut*, Chapter 10, verses 47 and 48.

### Oral Evidence of Mr. GUPTAM NAMBU DRIPAD, Calicut.

(Calicut, 15th November 1928.)

*Chairman:* Do you belong to the Nambudripad community?

A. Yes.

Q. Is your community considered to be higher than the Nambudri community?

A. The Nambudris make the claim that they are first class Brahmins in this part of the country, but we do not admit their claim.

Q. Is it a fact that amongst the Nambudri Brahmins there is very little of English education?

A. Yes.

Q. And do they generally hold lands as Jemmies?

A. Yes. They have no other occupation.

Q. But I understand that you are an exception and that you carry on business.

A. Yes; I am a rice merchant in Calicut.

Q. Is it a fact that in your community girls are married late?

A. Yes; there is no restriction with regard to puberty or age; and pre-puberty marriages are very rare. Pre-puberty marriages are not incumbent as they are in the case of other Brahmins in South India, and there is no stigma attached to a girl who is unmarried after puberty.

Q. Are you at all guided by the Smritis which guide the rest of India in these matters?

A. Amongst us custom is more important than Smritis.

Q. Do you at all follow the Smritis in any respect?

A. We take the Smritis as authority in certain respects only. But whenever the Smritis are in conflict with custom, custom prevails.

Q. According to the custom amongst Nambudris, is not pre-puberty marriage essential?

A. In fact post-puberty marriages are the rule.

Q. Can you compare the condition of your girls who are mothers for the first time with the girls of Pattar families and other classes and will you be able to say anything about their conditions as regards health?

A. Personally, I think that our girls are a little healthier than the other Brahmin girls. But at the same time I should say that there are conditions which guide the health of girls; for instance, in our community our women do not take sufficiently nourishing food, neither are they allowed to enjoy fresh air and exercise.

Q. In spite of this fact you say that your girls are better than other Brahmin girls.

A. Yes.

Q. What is the custom among the Embrandris as regards marriage?

A. They have pre-puberty marriage.

Q. Amongst the Brahmins, are you the only community which has post-puberty marriage?

A. Yes.

Q. Do you support it by any texts in the Smritis or do you base it only on custom?

A. It is believed that it is allowed in the Sankara Smriti, and it is also believed that it was allowed by Parasuram. But the authenticity of these texts is open to question.

Q. Have you got any other customs which override the Smritis?

A. We have 64 customs which are called Acharas by others. These are rules which are different from the customs of others. For instance, amongst the Nambudris only the eldest son in a generation can marry in the same community and the junior sons of the family marry amongst Nairs. This is considered by others an Achara. There are other Acharas of minor importance.

Q. Have you got any others of importance?

A. No. All these 64 Acharas have been given by Mr. Logan in his Manual of Malabar.

Q. Supposing there was a marriage law enacted by Government fixing the age of marriage at 16, would it affect you?

A. It would not affect us.

Q. And will not it be the same in the case of the Age of Consent Law also?

A. Yes; amongst us consummation is generally supposed to take place on the 4th day of the marriage, but since the marriages are all post-puberty marriages the law will not affect us.

Q. Is this 4th day ceremony the same as Chathurthi Karmaam?

A. No; it is only a custom.

Q. Are most of the Nambudris Rig Vedis?

A. Most of the Nambudris are Rig Vedis. But I myself am a Krishna Yajurvedi, but the majority are Rig Vedis. There are 21 families who are Sama Vedis.

Dr. Bendon: Have you met any cases in which there has been harm as a result of early marriage?

A. In our community early marriages are rare and therefore cases of harmful results are rare.

Q. Have you seen any cases amongst Pattars or Aiyars?

A. Yes; amongst them there are early marriages. I know of a case in which the girl was married at 12. She had her first delivery at 13, and 6 child births before the age of 25. Three of the children died before they were one month old. The mother is alive, but she is undeveloped and anemic.

Q. In what community was it?

A. That is amongst the Non-Brahmin community, but that custom is dying out and there is no fear of such cases being repeated.

Mrs. Nehrui: Is there a very large number of unmarried women in your community?

A. No. There is polygamy amongst us and one man can marry not more than three wives. Also the number of women in our community is less than the number of males. According to the last census there was only one unmarried woman who was 40.

Q. If girls remain unmarried for a long time, is there no talk about them in the community?

A. No; there is no such thing, because there is strict Purdah amongst our women and they are not allowed to go out of the house. Their condition in this respect is very miserable.

(The witness here referred the member to some extracts in English in a Malayalam book written by him about the condition of women in the Nambudri community.)

*Mrs. Nehru:* Do you agree with your brother that in a marital case the punishment with regard to the breaking of the Age of Consent Law should only be fines?

*A:* I think the punishment can be made still harder otherwise this will not be effective. But for our community it is not at all necessary.

*Mr. Mitra:* Do you think that if a law is enacted fixing the minimum age of marriage, any community will take exception to it?

*A:* I think amongst the other Brahmins there will be a great opposition at present. The east coast Brahmins will object if the age of marriage is raised. But the goal should be to raise the age of marriage to 15 or 16. Of course it might be impracticable now.

*Q:* What is the age of puberty in your part of the country?

*A:* About 13.

*Q:* And the usual marriage age amongst these persons?

*A:* About 13.

*Q:* So if you have 13 there cannot be any objection or say if we begin from 14 you think there will not be very much opposition.

*A:* There will be opposition from the east coast Brahmins but not amongst the Nambudris because the population of the east coast Brahmins is  $\frac{1}{2}$  per cent. of their total population.

*Q:* What is the age of marriage amongst these east coast Brahmins?

*A:* It is 11 and 12 but now the tendency is for a gradual rise. It used to be 7 or 8 years some 30 years ago.

*Q:* Don't you think that if we fix a higher age those Brahmins would support it?

*A:* The English educated people, I think, will like this change because it will be a blessing to them in more than one way.

*Q:* And the educated people are the real leaders of the country.

*A:* Yes.

*Mr. Kadri:* If we are to enact a legislation for marriage what should be the minimum age in your opinion?

*A:* The ideal should be 16 both for the purposes of marriage and consummation. But if there is opposition to raise the age of marriage to 16 then this is a compromise to raise the age of consummation to 16 leaving the age of marriage as a compromise at 12.

*Q:* You say that amongst Nambudris except the eldest son nobody marries. Don't you think that post-puberty marriage is due to the fact that no one else except the eldest son is allowed to marry a Brahmin?

*A:* That may be one of the causes but that is the custom.

*Q:* Either you must permit your girls to marry people of other castes or you must allow your sons to marry others. Don't you think that you are in real danger in this direction?

*A:* There is a movement for allowing the junior members of a Nambudri family to marry in the Nambudri family itself.

*Mrs. Nehru:* Have so far any younger brother been married in the community?

*A:* Two or three cases have occurred.

*Mr. Mian Muhammad Shah Nawaz:* Why should the eldest son alone marry with a Brahmin and no one else? What is the origin of this custom?

*A:* I cannot say that, but that is the custom.

*Q:* Who inherits the property?

*A:* The tharawad is not divided. There is impartibility. It is all joint and undivided family property, and is never separated.



**Written Statement of Mrs. MANJERI RAMIER, Vasantarama,  
Chalapuram, Calicut.**

1. Yes.
2. (i) The age of marriage has been steadily rising and no social penalty is now inflicted on post-puberty marriages or marriages after the girl has attained 16 years, even among very orthodox castes. The time is ripe for a further rapid advance.
3. The amendment of the law made in 1925 raising the Age of Consent to 14 has had a healthy effect, and a further advance in legislation is the best way of making even the old law effective.
4. (i—ii) Yes.
5. Between 11 and 14.
6. (i) No.
- (ii) Not after raising the age.
- (iii) No.
7. Consummation of marriage before puberty is not attributable to religious injunction; at puberty, it is. Among Brahmins the Smritis require consummation within 12 days after the bath on the 4th day. No penalty is prescribed except that it is considered sin.
8. The performance of the "Garbhadan" ceremony coincides with the consummation of marriage. It is generally performed after 13 or where puberty is later, soon after.
9. No. Sixteenth.
10. Not earlier than 18.
11. Early consummation is the cause of general ill-health, infant mortality and degeneration of the race.
12. Yes.
13. Among the higher classes who are educated.
14. There is still some prejudice in postponing consummation long after puberty but for the new law of 13 years.
15. Strict enforcement of birth registration and compulsory registration of marriages with production of birth certificates.
16. Yes.
17. I will make a distinction. Marital offences before 16 and extra-marital offences between 16 and 18 I would treat as similar deserving only two years' imprisonment or fine or both.
18. The trial of all these cases should be held in camera before experienced Judges not below the rank of Sub-Judges or Assistant Sessions Judges.
19. In all marital cases, and extra-marital cases between 16 and 18, the sanction of the Government Pleader or Public Prosecutor should be obtained.
20. The Age of Consent for marital cases and the minimum age of marriage must be identical. Otherwise there will be an increase in (1) the very offences which it is intended to prevent by the new legislation, (2) virgin widowhood.
21. Both are necessary.

**Oral Evidence of Mrs. MANJERI RAMIER, Chalapuram.**

*(Calicut, 15th November 1928.)*

*Chairman:* Would you like to be examined in English?

A. I would like to be examined in my own language. I don't know English.

Q. To what class of Brahmins do you belong?

A. I am a Smartha Brahmin.

Q. Is there marriage below 13 amongst the Smartha Brahmins?

A. Yes. 13 used to be the rule before but now that is slowly going out.

Q. Are there a large number of marriages which do take place before 13 even now?

A. So far as I know, very few marriages take place before the girl attains 13.

Q. How long has that been so?

A. There is a great change within 3 or 4 years.

Q. Is it a fact that your own girls are married after puberty?

A. Yes. I have two daughters and both of them were married after they had attained 16.

Q. How was that looked upon by the Smartha Brahmins?

A. Of course people did not like it in the beginning but now all that has fizzled out.

Q. Are there more cases or is it an exceptional case still?

A. Marriages after 16 haven't become the rule and yet the tendency is towards that and people sympathise with it. But few people have courage to act up to these conditions.

Q. Was there any difficulty in getting husbands for your two daughters?

A. There was absolutely no difficulty.

Q. When you say that there is the tendency towards a higher age, do you usually think that there is a large proportion amongst the Smartha Brahmins who would if possible get the excuse of a marriage law prohibiting pre-puberty marriages? Do you think then that your hands will be strengthened?

A. Certainly.

Q. Would you like the age of marriage to be 16?

A. Yes.

Q. What would you put for extra-marital case?

A. 18.

Q. What is the age you would fix for Age of Consent?

A. Same as marriage. The Age of Consent and the age of marriage should be identical, i.e., 16.

Q. Is it a fact that there are many girl-mothers below 14 and 15?

A. Yes. There are a large number of cases.

Q. Would you be able to tell us what is the state of health of these girl-mothers of 14 and 15 and on their children?

A. The mothers are quite unhealthy and their children are also not quite healthy as one might expect.

Q. Do I understand that you therefore advise this increase of age on account of the experience you have got of the ill-health of these children and mothers?

A. Yes.

Q. Had you any occasion to talk with other Smartha Brahmin women in the community of your age about this and other questions?

A. In women's meetings and generally amongst friends I have had occasion to talk with them privately and discuss these matters.

Q. Had you occasion to talk with women of other classes?

A. Yes.

Q. You say you had occasion to talk privately to these ladies. From that do you think that they would welcome such a law?

A. Yes. They would welcome it.

**Q.** If they would welcome such a law we were told that the Iyers would suffer most on this account and they would protest, etc.

**A.** They might protest but really inwardly they would also be glad.

**Q.** Are there any cases of girls attaining puberty and hidden amongst the Iyer class?

**A.** There are innumerable cases.

**Q.** How do they get over the pollution in their homes for four days?

**A.** Sometimes it leaks out and sometimes they are able to conceal it.

**Q.** Why is it that although there is pre-puberty marriages these girls are compelled to have post-puberty marriages? Is it on account of difficulty of getting husbands?

**A.** Sometimes they will not have enough money to celebrate the marriages and sometimes there will be difficulties for various reasons and it cannot be ascribed to one reason.

**Q.** Can you say that there is a general consciousness in mothers of these girls that their children would be ruined if they are married early? Do they realize that fact?

**A.** Yes. It is growing.

**Q.** Do you think that if we have only the law of the Age of Consent and no law of marriage, would you like that?

**A.** I say that the age of marriage must be raised to 16. I won't be satisfied merely with the Age of Consent only.

**Q.** When does the nuptial ceremony take place amongst your class of people? How long after puberty does it take place?

**A.** It varies with various people but it is a prevailing impression that it must be performed on the 16th day after the first puberty.

**Q.** But we are told that now-a-days it is, as a rule, postponed till 9 or 12 months. Is it so?

**A.** Yes. I mean there is no fixed period as 9 or 12 months but sometimes even after that it is performed.

**Q.** Then the period of 16 days needn't be considered an incumbent.

**A.** Absolutely there is no compulsion.

**Q.** Can it be postponed?

**A.** Yes.

**Q.** Now is it on account of the custom that your community wishes to stick to pre-puberty marriage or is it on account of any belief in a Shastric injunction?

**A.** It is only due to custom.

**Mrs. Beadon:** Can you give me definite cases where any special harm had occurred to the mother and her child on account of early maternity?

**A.** In the case of our own family there have been instances in which both the child and the mother suffered on account of early maternity.

**Q.** Have you seen any girl-mother died within your recent memory?

**A.** Yes. There have been cases of even death within the past eight years.

**Q.** How many cases?

**A.** Happily such cases are rare.

**Q.** Are the cases in which the girl-mothers suffer weakness common?

**A.** That is on the increase. That is why the age of marriage should be raised. Mainly that is the chief reason.

**Q.** Might we know what is the other reason?

**A.** There is no time for education and for the general attainments of the girls and before she can achieve the general attainments motherhood is imposed on her.

*Q.* Do you find consumption in your people?

*A.* Unhappily there are some cases. It is not common amongst us. But it is on the increase.

*Q.* Since how long it is on the increase?

*A.* Since the last four or five years.

*Mrs. Nehrū:* What is the state of women's education in your community?

*A.* It is on a minimum because they have to look to other duties.

*Q.* Do girls go to schools?

*A.* Yes, they do.

*Q.* When do they generally leave the schools?

*A.* They cease to attend schools immediately after marriage and until marriage they go to schools.

*Q.* That is to say, up to 13 or 14 they go to schools?

*A.* Yes.

*Q.* Are there any matriculates among t your people?

*A.* There are some.

*Q.* Are there no graduates?

*A.* Very rare.

*Q.* But are there any at all?

*A.* In Malabar I don't know to my knowledge.

*Q.* Do you also follow Malabari customs as regards inheritance?

*A.* No, we don't follow.

*Q.* Do you marry outside the community as the Nambudris do?

*A.* No.

*Q.* Do you mean to say that after the late amendment of 1925 no cases of consummation have taken place soon after puberty? Is that correct?

*A.* Consummation soon after puberty has stopped after the 1925 amendment.

*Q.* Do people generally know about this law?

*A.* Yes, they know about it.

*Q.* In your answer to question 17 you have said that marital offences before 16 and extra-marital offences between 16 and 18 you would treat as similar deserving only two years' imprisonment or fine or both. Does that mean that in extra-marital offences also you want the punishment to be reduced to two years or fine or both?

*A.* I advocate the same punishment for marital offences below 16 and for extra-marital offences between 16 and 18.

*Q.* Will you kindly tell us when you married your own daughters after 16 whether there was any attempt for social oppression or social ex-communication on the part of your community?

*A.* For a couple of years people didn't mingle with us. All that has completely fizzled out.

*Q.* When was your first girl married?

*A.* When she was 18.

*Mr. Bhargava:* When did you marry your second daughter?

*A.* May 1921. After she had attained the age of 16 she was married.

*Mr. Mian Mohammad Shah Navaz:* Will girls generally keep straight if they are not married before 16?

*A.* Yes. If they are given education, they will not go wrong.

*Q.* Will the illiterate people go wrong?

*A.* Mere want of education does not take people to wrong ways. Literate people in our community won't go wrong.

Q. Do girls of 17 or 18 desire to become mothers?

A. Not so.

Q. What is the feeling of the girls on this question of early marriage and motherhood?

A. The girls do not want to be married before 16 or 18.

Q. Whether the boys of 19 or 20 want to become fathers?

A. The boys also don't want to have children.

Mr. Kankaiya Lal: Is widow marriage permissible in your community?

A. There is no custom or sanction which permits re-marriage. In practice widow re-marriage seldom takes place. I know of two widows who were re-married?

Q. Were they child-widows or ordinary widows?

A. They were child-widows. This was in Travancore and happened within three years.

Q. So far as the girls are concerned, there was no excommunication?

A. They are quite happy now. I cannot say whether there was any great trouble in the beginning.

Mr. Kudri: I want to know how was the attitude of your people towards you when you married your daughters late?

A. In the early days immediately after the marriages we were ridiculed but now they sympathise with us and say that we have set a very good example.

Q. Have there been any conferences of ladies or meetings where this question has been discussed?

A. There have been meetings but in very few I have taken part.

Q. In para. 7 you say that among Brahmins the Smritis require consummation within 12 days after the bath on the 4th day. Can you tell us what this Smriti is or where we shall find these authorities?

A. I haven't studied any Smritis. I have only heard.

Q. Have you heard from Pandits?

A. Yes. I cannot point my finger to any Smriti on this point.

### **Written Statement, dated the 10th August 1928, of Rao Bahadur Dr. K. NEDUNGADI, Retired Civil Surgeon, Calicut.**

In this part of the country child marriage is rare and as education advances it is disappearing slowly. If general education spreads amongst the masses this is bound to go. There are some sets amongst the orthodox Brahmins who consider that everything old is good and everything new is bad and they are prepared to cite chapter and verse from Puranas to support their views. These I consider a set of monomaniacs and should be ignored.

As a medical man I have come across many cases where girls of 13 and 14 have had an awful time at confinement and in such cases the child invariably died and the mothers often.

In India a girl is not fit for sexual connection before she attains her 16th year and this is the lowest age at which she can be expected to give an intelligent consent to this act.

A child may be married at 8, 10, or 12, but sexual connection should not be permitted before she is 16 and even then in some cases where the health of the girl is bad a doctor should certify as to her fitness before the husband is allowed to approach her. I say this because I have known instances where an impatient husband has spoilt the health of a girl suffering from consumption, malaria or some other constitutional disease.

As at present parents are anxious to get the girl married but when the time comes for consummation the girl may not be fit and yet the parents are helpless to prevent the husband from taking away the girl. In such cases a proper medical certificate is the only remedy.

Attainment of puberty is not sufficient indication of physical maturity in a girl to justify consummation of marriage. Physical development will not be complete before the age of 18, whereas puberty may appear at any age after 12.

I consider that several cases of infant and maternal mortality can be traced to too early consummation of marriage. The mother is still a girl and the parts are not sufficiently developed to give exit to a child the result being that the child dies and the mother is subjected to permanent injury.

Public opinion is confined to the educated few, the masses being indifferent to it. The orthodox monomaniacs must die out and mass education on modern lines must spread much more before we can expect any public opinion in the country. Until then legislation on correct lines is the only remedy.

Marriage as understood among Indians may be allowed at any age to satisfy the parents who are anxious to see the child settled as to its future, but consummation should not be allowed before the age of 16 and even then in the case of delicate girls on medical certificate. I am not attempting to answer questions of a legal nature as I am incompetent.

Mass education must be made compulsory and everyone, boy and girl, must be taught simple health rules. Consummation of marriage before the age of 16 must be made penal. If these are accomplished India will have a bright future.

I am prepared to give oral evidence on these few points, if necessary. Thanking you for giving me an opportunity to express my views.

## • Oral Evidence of Dr. K. NEDUNGADI, Retired Civil Surgeon, Calicut.

(Calicut, 15th November 1928.)

*Chairman:* I understand you are a retired Civil Surgeon.

A. Yes.

Q. You belong to the provincial service?

A. Yes.

Q. What districts did you work in?

A. Tanjore, South Arcot and Madras chiefly.

Q. What community do you belong to?

A. Nair caste.

Q. Have you put in a very long service?

A. 33 years.

Q. Did you find any change in the views of the people during the time you entered service and when you retired?

A. There was a great change.

Q. Do you think that change is so great that it will justify an interference by legislation?

A. The change is too slow to resort to legislation.

Q. You think we ought to legislate and make it hasten?

A. Yes.

Q. Would you like to have a law penalising marriages or would you like to have a law of Age of Consent?

A. I am not for keeping these two things apart. It must be one thing. Marriage and consummation should not be separate. I am of opinion no

marriage should be celebrated before 16. In the case of boys it must be about 21.

*Q.* Do you see any way of reconciling the orthodox opinion, viz., to allow them to have pre-puberty marriages and at the same time postpone the period of consummation, say, to 15 or 16?

*A.* No, they will not be pleased if we do anything and we cannot try to please them because we will be stultifying our object.

*Q.* Putting off consummation up to 16 would not stultify our object.

*A.* You allow marriage at 12 and marriage makes man and wife. You cannot keep the wife away from the husband for any length of time and you cannot punish a man for going to his wife. Let not the man be married.

*Q.* Therefore you would rather have no law of consummation and you would have a law of marriage. Is that so?

*A.* Yes.

*Q.* If there is no law of marriage do you think the law of consent raising the age of consent, would be of any use?

*A.* In any case it must be 16 in marital cases and 18 in extra-marital cases.

*Dr. Beadon:* You say in this part of the country child marriage is rare. Do you think it is sufficiently high to require legislation?

*A.* As far as Malabar is concerned I find this district much better in many respects than many other districts.

*Q.* Do you think in other districts this law of marriage is necessary?

*A.* Yes.

*Q.* Do you think there will be a great deal of trouble if a law of marriage is passed?

*A.* I do not think so. It is a very very small minority that is kicking up draw against it and if the Government have little courage of their conviction they can easily do it. Let them borrow a page from Kamaal Pasha.

*Q.* Would you mind telling us any cases of girls married below 12; did they suffer physical injury?

*A.* I attended a case of labour of a girl of 12—14 and there was a good deal of trouble. This was about 16 years ago. There is a girl-mother here in the child welfare centre below 14. She has had a very difficult delivery and I do not think she will recover her normal health later on.

*Q.* Is this as a result of labour?

*A.* Yes, it is due to tearing of the parts.

*Q.* Do you find that these early labours cause more tearing than later labours. We were told that at a later age the parts are not so elastic and there is likelihood of difficult deliveries.

*A.* Early labours cause more tearing.

*Q.* Is the tearing severe?

*A.* In some cases it is severe.

*Q.* What about children of these girl-mothers of 14?

*A.* The children die. Last year a child died when the girl was 14.

*Q.* Are there many such cases?

*A.* We meet such cases seldom. There are cases but they do not come to light.

*Q.* Do you find tuberculosis is common amongst these girls?

*A.* Yes, it is common.

*Q.* Is it specially common among young mothers?

*A.* I think by lower vitality they become amenable to tuberculosis. Tuberculosis is common in this part of the country; they get the infection quickly. It is common among the Moplah women especially.

*Q.* Is it among the women as well as men?

*A.* I think it is common among women than amongst men because women are generally confined to their houses and men go about.

*Q.* Do you think there is a great deal of mortality from this?

*A.* Yes.

*Mian Mohd. Shah Nawaz:* You say that you have treated many cases of confinement. Can you give the number?

*A.* In my service I have treated about 50 cases between 13 and 14.

*Q.* What was their general condition? Were the children weak?

*A.* Children are generally weak and many of them die within one year, the mothers suffer a lot from the effects of confinement and in many cases delivery itself was so difficult. In some cases mothers got T. B. That was in Tanjore.

*Q.* In which communities?

*A.* In all communities. I find that all other communities follow Brahman lead and do like Brahmans.

*Q.* If a girl gave birth to a child at the age of 13 or 14 does she subsequently suffer much mentally and physically?

*A.* Physically they suffer a good deal.

*Q.* And are the children in the case of second delivery better?

*A.* If the first delivery is difficult the second delivery is also difficult.

*Q.* When do girls attain puberty in this part of the country generally?

*A.* 13--14.

*Q.* When are they fully developed?

*A.* They are never fully developed before 18.

*Q.* When are they fit for sexual intercourse?

*A.* At 16 they are fit but the proper age is 18.

*Q.* Could you tell us whether a girl of 16 will have desire of sexual intercourse with a man?

*A.* That depends on the bringing up of the girls. If girls are brought up among other girls who talk about these things and create a desire in them then it is aroused. As a rule they would not have any desire; even up to 17 or 18 they do not care about it.

*Q.* And when do the boys get mature for sexual intercourse?

*A.* About 17 or 18.

*Mr. Bhargava:* May I understand that on account of marriage itself girls and boys begin to have a desire for sexual intercourse?

*A.* This also creates a desire in them.

*Q.* You say 13--14 is the ordinary age for menstruation among girls. Does it apply to Moplahs also?

*A.* Yes. There is no difference between Moplahs and others.

*Q.* One witness said that the age of puberty among Moplah girls is 10--12.

*A.* I think it is about 12--13.

*Q.* You say that a girl is not fit for sexual intercourse before she completes her 16th year. May I understand that after she completes 15 and enters 16 or after she completes 16?

*A.* I have not thought about it but I take it when she completes 16.

*Q.* You say that marriage at any rate may be allowed at any age and consummation should not be allowed before the age of 16 and even then till the girl is medically examined. May I know what is in your mind. You mean girls should obtain medical certificate?

*A.* Yes. Supposing a girl has tubercle, at the early stages it is not noticed.



Q. Is it workable?

A. When you make a law like that it will be possible.

Q. The law should be that girls suffering from particular diseases should be given medical certificate before they are allowed to marry?

A. If any girl is particularly subject to physical defect or very weak she must be examined professionally.

Q. Would that be in the nature of advice?

A. Yes.

Q. May I take it that you are for marriage legislation independent of the fact whether there is any agitation or not?

A. Agitation must be put down.

Q. Supposing there is marriage legislation it will be in the nature of a provision penalising marriages below a certain age if person breaks it?

A. What happens if a man breaks any other law.

Q. Therefore you must have the consent law along with it.

A. Yes.

Q. We have been told by certain witnesses that early consummation leads sometimes to sterility in the girl. Is that your view?

A. In rare cases it may lead to sterility because as a result of early consummation and early pregnancy she may get disorganised and she may get sterilised afterwards.

Mr. Kadri: As regards the medical certificate you say that it is merely a recommendatory thing but I can give you a legal form. In a suit for the restitution of conjugal rights would you like the wife to bring in a plea of T. B. as a defence to perform the marital obligations for physical weakness?

A. Yes, she can. She can bring in a plea of that kind.

Mr. Kunhaiya Lal: Supposing there is a law fixing the Age of Consent at 16, how would these cases be brought to light?

A. It is impossible, because both the husband's party and the wife's party are guilty and there is nobody who will bring up complaints.

Q. Supposing we form vigilance societies to watch and look after these cases; do you think they will be helpful?

A. No.

Q. Would caste panchayats be able to help us in this matter?

A. No.

Q. Have you got any panchayat system in the villages here?

A. There are panchayats.

Q. Are they constituted under any enactment?

A. I think the village munsif is a party in it. I am not quite conversant with it.

Q. Do you think social reform organisations would be of help in this matter?

A. I am doubtful.

Q. Do you think if these cases occur the medical profession—men and women—will be able to help us and make confidential reports about those cases which come to their notice to the proper authority?

A. In these cases if I come and give you information you would drag me to court 15 times. I would not mention it even if I see a man murdering another.

Q. In the case of poisoning you do it?

A. Yes, that is our duty.

Q. As a matter of public duty would you not help the authorities by reporting such cases as come to your notice?

A. If it is made a law we will do as far as we can, but it will be very little.

**Written Statement, dated the 16th November 1928, of Mr. G. SARYOTTAMA RAO, M.L.A., Calicut.**

1. I am not certain.

2. (1) and (2) I find that. At least during the last one or two decades, public opinion, even among the High Caste Hindus, has been steadily growing in favour of allowing girls to continue in their maiden state beyond the normal age of puberty (say, 13 or 14 years) before seriously thinking of opening negotiations for their marriages. Post-puberty marriages are gradually coming into fashion. Under the circumstances, there seems to be no objection to making an advance on the present law.

3. In my part of the country (Malabar-Kerala), crimes of seduction or rape, so far as I know, are few and far between, and this is not to be wondered at, considering the peculiar customs in vogue in regard to marriage, which, among most Malayalees, is called "Sambandham". This may be dissolved by mutual consent of the parties at any time. The absence of social restrictions governing marital relations, I think, naturally reduces the necessity for criminal intention or action.

4. Most married girls are protected, not so much by the amendment of 1925 as by the trend of public opinion, which is in favour of post-puberty marriages. (Vide answer to query 2.)

5. I cannot say anything with authority, but, so far as I can understand, a large majority of girls attain puberty in this part of the country at 13 or thereabouts. It must naturally be so in every tropical country.

6. (1) I have no knowledge.

(2) Yes; in cases where marriage has been solemnised.

(3) I think there may be a few cases of this kind, where a married girl attains puberty before completing 13 years and nuptials are performed.

I am not aware of any such cases coming to court.

7. I am not aware of any cases of consummation of marriage *before* puberty being recognised as enjoined by religion.

8. Yes; it is performed only after the attainment of puberty, and may take place sooner or later after puberty.

9. As a rule, among the High Caste Hindus, attainment of puberty is regarded as a sufficient indication of physical maturity to justify consummation of marriage. My own individual view is that no consummation of marriage should take place until and unless the couple are both healthy and strong, and the husband is in a position economically to maintain the prospective additions to his family. I am also of opinion that no girl should be obliged to undertake the responsibilities of motherhood before she attains the age of majority (18 years).

10. I think there cannot be any appreciable number of girls in India, below the age of sixteen at least, who would give an intelligent consent to cohabitation, with a due realisation of consequences. In most cases, the consequences follow, as a matter of course, without being previously realised.

11. No; I should think that cases of cohabitation before puberty must be regarded as tantamount to unnatural offences and, therefore, are most surely to lead to serious injury to the health of the girl and, as a matter of course, prejudicially affect her progeny.

12. Though a layman myself and, therefore, not quite competent to venture a correct opinion on the matter, I still think, as any rational man should, that, regard being had to the importance, attaching to the natural laws of growth, a violation of them must be detrimental to those who are responsible for it and must lead to prejudicial effects to their offspring as well.

13. I am not aware of any such, but there has nevertheless been a growing tendency for the postponement of the customary age of marriage, even among the High Caste Hindus, on various grounds including economic as well. (Vide answer to query 2.)

14. Old (often septuagenarian) members in Hindu homes, of the generation that is fast dying out, are found to be keen about early consummation of marriage for their grandchildren, as they often express the wish of dying after witnessing the progeny of such grandchildren; but the present generation of men and women are practical reformers who, even in the absence of any legislation, are in favour of post-puberty marriages.

15. I am not certain of any. Professional opinion will have to be taken in doubtful cases.

16. I believe it must prove beneficial.

17. Yes. In the case of marital offences, the punishment must be lighter in view of the extenuating circumstances. In other cases, a heavier penalty ought to be inflicted.

18—19. I have no suggestions to make. Jurists should be consulted on this aspect of the question.

20. Legislation fixing a minimum age of marriage might be the better of the two, but orthodox opinion in Southern India (Malayalese excepted) may be opposed to this. Hence penal legislation fixing a higher Age of Consent for marital cases will have to be introduced.

21. The progress of social reform by means of education and social propaganda must certainly be regarded as a better means than the adoption of penal legislation. But, it is unfortunate that such progress is not being made as rapidly as would be in keeping with the march of events in the present age, so much so that people have to be roused up to action by more rigorous measures, such as penal legislation alone can enforce. Hence, I am of opinion that some advance on the present law in respect to the Age of Consent is imperative to bring those, who will not move of their own accord, if left to themselves, to a sense of their duty in this matter, which so much concerns the welfare of the under-aged girls and their prospective progeny.

### **Oral Evidence of Mr. G. SARYOTTAMA RAO, M.L.A., Calicut.**

*(Madras, 22nd November 1938.)*

*Chairman:* Are you connected with any Social Reform movement in Calicut?

A. No.

Q. Are you connected with any school in Calicut?

A. Yes; I am connected with schools both for boys and girls.

Q. Do you belong to the Saraswat community?

A. Yes.

Q. Is that community sparsely represented in Calicut?

A. Yes.

Q. Is there a large number of people in Calicut who still have child marriages?

A. I do not think there is anything like child marriages in Calicut except perhaps in a few out of the way places.

Q. Do you think there are a large number of cases of consummation before 14?

A. So far as Malabar is concerned I do not think it is so.

Q. We have been told that amongst Moplahs consummation takes place immediately after puberty, and that amongst them puberty takes place at 11, 12 and 13. Is that so?

A. I think even amongst the Moplahs there must be a difference of opinion in the matter. So far as I know except in a few cases consummation does not take place early.

**Q.** You have not said what age you will fix for the Age of Consent. At what age will you fix it?

**A.** I would fix it at 16.

**Q.** Is it your opinion that there should be a law raising the Age of Consent rather than a law for marriage because orthodox opinion might be opposed to the latter?

**A.** I only gave it as my opinion that orthodox opinion will be opposed to fixing the age of marriage. Personally I would certainly be for fixing the age of marriage rather than the Age of Consent. I think that both the age of marriage and the Age of Consent should be very near each other.

**Q.** What would you have as the Age of Consent in extra-marital cases?

**A.** 18.

**Q.** Would you have the law of the Age of Consent merely, supposing it is not possible to have a marriage law?

**A.** Yes; I will be satisfied if the Age of Consent is fixed at 16.

**Q.** The age at present is 13, but no cases have come to light though there have been breaches of the law. If you raise the age to 16, do you think cases would come to light?

**A.** I should think that the educative effect of the law on the Statute Book would be more useful than the actual finding out of the cases. I think it will take a lot of time for the law to be effective.

**Q.** Do you think that the presence of the law would by itself be deterrent and people would be inclined to obey it?

**A.** Yes, I think so.

**Mrs. Nehru:** You say that you are not aware of any religious injunction for consummation before puberty. Do you think there is such injunction for consummation immediately after puberty?

**A.** No; it is not so enjoined. Even Manu, I think, says it should be three years after puberty.

**Q.** In para. 17 you say that the punishment in marital cases should be lighter. Can you definitely say what the punishment should be?

**A.** I suggested that the punishment should be lighter, because in these cases there will be more than one person implicated.

**Q.** What is the punishment you would prescribe?

**A.** In the case of major husbands and responsible persons including the Purohit who officiates at the marriage I would give them all the same punishment. But I do not want the mother to be punished.

**Q.** You are talking about marriage. But may I know what punishment you would have in marital cases against the Age of Consent?

**A.** In case the consummation is solemnised before the age fixed, the Collector of the District may take action immediately. He can keep the husband away from the wife; at least forcibly for some time.

**Q.** Do you mean by putting the husband into prison?

**A.** Yes.

**Q.** There has been this provision in the law all along then why has so far this law not been effective?

**A.** Because people have not great interest in finding out these things. Education and social reforms must go in the wake of these laws.

**Q.** Is there any possibility that after the age is raised, the law will become effective?

**A.** The first law was passed at a time when the people thought very little about it; but this law comes when their eyes have been opened to the evils. I therefore think that the present legislation will have greater effect.

**Q.** Do you think that after the amendment of 1925 a gradual change has come over the people?

A. So far as this part of the country is concerned, there is no doubt that it has opened the eyes of many. I might say in this connection that unless a girl is in a position to realise intelligently her situation with regard to her husband or the results which may follow in the wake of any cohabitation, steps should as far as possible be taken to check such acts. That is my main idea.

Q. What steps would you suggest to stop such consummation?

A. The only way would be to penalise such things. Naturally there will be a certain number of cases coming up and if they are dealt with strongly, such cases will not occur.

Q. If special committees are appointed for bringing such cases to light, will they help?

A. That will go on unchecked in spite of all Committees. It will take some time for the law to become effective.

Mr. Mudaliyar: Is it your suggestion that the very passing of the law would be known to a large majority of people and check cases occurring?

A. To an appreciable extent.

Q. And do you think that infringements of the law will be rare?

A. Yes.

Q. Do you think it will also help people who are advanced, but are kept back by custom? Do you think legislation will help them?

A. Yes; to a great extent.

Q. Do you think there are a large class of people who are prepared to take this course?

A. Yes.

Q. On the other hand it has been suggested that the change will be so revolutionary in character that it will be unfair to thrust this legislation down the throats of a small minority who do not want them.

A. I think revolutions are necessary sometimes.

Q. Is the evil so great as to create revolutions?

A. It will be a revolution only amongst a small section of the community.

Q. Do you think it is not unfair on the part of the majority who are unaffected to interfere with the actions of the minority?

A. I am for sacrificing one community for the good of all.

Q. The good of the whole does not necessarily arise in this case because according to our hypothesis the large majority are not in need of the law, but it will affect only 4 or 5 per cent. of the people who are having pre-puberty marriages and early consummation. It is with reference to this class of people that legislation is practically suggested to be attempted in this Presidency. Where is the good of the whole country when only 4 or 5 per cent. is affected? When the evil is restricted to a particular community and there are also religious objections, why not allow it?

A. In the Madras Presidency the law will be superfluous so far as 95 per cent. of the people are concerned. But even amongst the 95 per cent. who are concerned, there are some who consummate marriages early, and these are people who, whether they like it or not, have to follow the Brahmins.

Q. Do you mean to say that while according to the Shastras the evil is confined only to certain communities, other communities try to ape the customs of these so-called higher communities?

A. I will not say that they ape the customs, but they are guided by them.

Q. Is it growing or is it being checked now?

A. Of course the spread of education and social movements have arrested it a great deal.

Q. Why should we not rely, then on these social movements to achieve our object?

A. As I have said in the last paragraph of my statement, these movements are slow to work.

Q. You also said that there is another class who come under the influence of these classes who are being dominated by their example and that a number of them adopt the formers' example. Is that so?

A. But that will not be a very large percentage.

Q. What do you think is the extent of this practice in the whole of Southern India taking all communities?

A. I do not know anything about other places except Malabar.

Q. In Malabar is this custom prevalent amongst the people?

A. In Malabar there is the Tallikattu ceremony when a number of girls in the family have their Talis tied by one and the same man. But there is no sort of relationship between the man and the girls. The ceremony is only for the purpose of giving the girls a marriageable status.

Q. So far as your personal knowledge of Malabar goes, do you think that this legislation is necessary?

A. I do not think it is necessary for Malabar.

Q. Is your knowledge of other districts based on hearsay?

A. Not exactly hearsay. There are many movements now, and there is lot of literature also.

Q. With reference to the punishment of these crimes, have you got any suggestions to make?

A. The difficulty in such cases is that some persons will be implicated who cannot rightly be said to be responsible for it. I consider that punishment should be light in such cases. But in the case of responsible persons the punishment should be deterrent.

Q. Is it the marriage law you are talking of or is it the Age of Consent Law? Where is the chance of anybody other than the husband being implicated under the Age of Consent Law? It is the husband who will be liable; what punishment would you give him?

A. For the present, I think, one year would be sufficient; it may be increased later on if necessary.

Q. Do you not realise that if the punishment is high to begin with, it will act as a check, and with the help of social reform there may not be any necessity for any law at all after some time?

A. I think one year will be sufficiently deterrent in these cases.

Q. Knowing Hindu Society as you do, do you think there will be any difference between one year and two years?

A. I do not think.

Q. Would you advocate a system of fine instead of imprisonment?

A. Even in the case of the Age of Consent, the fine would be included in the dowry at the time of marriage.

Q. Would you then have some sort of imprisonment?

A. Yes.

Q. Orthodox opinion is not prepared to go beyond 14 in the case of the consent law. Would you then have it at 14?

A. As I said, there should be as small a period as possible between the age of marriage and the age of consummation.

Q. Supposing it is not possible to have a marriage law, what would you then have as the Age of Consent?

A. 16, I would put as the absolute Age of Consent.

Mr. Mitra: You might be aware that there is a class of orthodox people whose number may be small, but who sincerely believe that it is against the

Shastras not to have pre-puberty marriages. Are you ready to make exemptions in their case in your marriage law if you fix the age at 14?

A. I will have no exemptions.

Q. It has been said that the Queen's Proclamation states that Government would observe neutrality in religious matters. If that is so, do you not think that the orthodox people should claim some consideration?

A. They will continue to repeat the Proclamation.

Q. Don't you think that it will be a hardship if it goes against Shastraic injunctions?

A. They will be accustomed to a law if it is once passed.

Q. Do you not think that they rather undergo punishment than yield to these coercive laws?

A. I do not think so.

Q. Have you no sympathy for the people who have got religious objections?

A. No.

Mr. Bhargava: Are you a Brahmin?

A. Yes.

Q. How many schools have you got under your charge?

A. About eight schools.

Q. How many of them are High Schools?

A. Two.

Q. How many of them are Middle Schools?

A. Three of them.

Q. What will be the number of boys in all the schools?

A. About 2,000.

Q. Do you generally come into contact with these boys?

A. Yes.

Q. Do you know their opinions on this matter? Do you think that the boys in general do not like to be married early?

A. No; they do not like to be married early especially in the present economic conditions of the country.

Q. And the girls?

A. Nor do the girls in my part of the country.

Q. Do you know Sanskrit?

A. Yes.

Q. Do you mean that the texts on the subject of marriage are not mandatory but only directory?

A. Yes.

Q. Do you mean to say that even if there is objection on behalf of the orthodox people, you are for a marriage law as well as the consent law?

A. Yes.

Q. Do you think that early marriage leads to the deterioration in the constitution of boys and girls, and is productive of very bad effects, and that it is therefore the duty of Government to check it by means of legislation?

A. Yes. This will come under law of protection.

Q. Will you compare this with Malaria for instance. Would you say that it is the duty of Government to spread quinine when there is Malaria?

A. It is one of the duties of Government.

Q. Do you think that it is a social crime to marry girls at an early age and allow them to become widows?

A. Yes; I feel strongly on the matter.

Q. Do you also think that Government should take up some propaganda

in this respect, and that they should popularise the knowledge that such early marriages lead to evil effects?

A. They may do so and say that the law is essential.

Q. You say that in the case of breaches under the marriage law, there should be a punishment of imprisonment provided for the father, but that in the case of the mother there should be no punishment at all.

A. Yes; for some time to come.

Q. Supposing a person has no father, but only the mother, then would you have fine only?

A. What is done in the case of women in other cases might be done here also.

Q. Would you consider a fine sufficient?

A. Yes.

Q. As the law is at present, the right of complaint inheres in every person to bring the matter to court and seeing that the law is obeyed. Do you want to retain the law as it is?

A. It may be retained as it is. But I do not think there will be complaints. I think some other arrangement should be made to bring these cases to light. Just as you get licenses in the case of Pandals for marriages, I think you can have licenses taken before marriages.

Q. Your anxiety is to see that the law is administered effectively. For that reason you propose that some steps should be taken to make it obligatory on individuals to bring these cases to court. Would you like the obligation to be placed on every citizen and say that he should report the matter to the proper authority as soon as it comes to his knowledge?

A. Yes; every marriage whether it be before or after puberty should be reported.

Q. Do you mean to say that a marriage register should be maintained for the purpose?

A. Yes.

*Mr. Shah Nawaz:* How many girls are there in your schools?

A. At least 200.

Q. What would be their ages?

A. That would range between 7 and 16.

Q. What would be the number of Brahmin girls?

A. Very few. After they go to the 5th or 6th Class they fall out in number.

Q. Do you think that girls of 15 will go wrong if they are not married?

A. That depends upon the society in which they are.

Q. You say that your schools are mixed schools. Do you think there is any danger?

A. I have not experienced any danger.

Q. What is the age of the grown-up boys in your schools?

A. We do not take boys above 15 in our Middle Schools.

Q. Do not girls remain chaste up to the age of 14 or 15?

A. That is what I am forced to believe.

Q. Is it a fact?

A. I have not had the chance of examining the chastity of these girls.

Q. Some of the witnesses have said that there is a likelihood of their going wrong. Have you heard of scandals about them, or have you had reason to believe that they will go wrong?

A. No.

Q. Supposing we were to fix the minimum age of marriage of girls at 14 or 15, do you think it will be seriously opposed by the Brahmins?



A. There is always serious opposition to every good step that is taken. But they will end with protest conferences and passing resolutions.

Q. Do you think they will obey the law?

A. Yes, they will.

Mr. Kadri: You talk of elderly men marrying young girls and their being anxious for early consummation. It has been suggested by some people in this connection that some legislation prohibiting marriages of people above 40 with girls under 14 would be a step in the right direction. Do you agree?

A. Yes; we should take steps to stop such unequal marriages.

Mr. Kanhaiya Lal: Under the existing system, marital cases under 12 go to a Sessions Court, and above 12 to a magistrate. If instead of having these two forums we have a separate matrimonial court consisting of a magistrate or judge and two non-officials, would such a court inspire better public confidence and ensure the disposal of these cases with due expedition and without undue publicity?

A. Yes; I would recommend that, as it will make this law workable.

Q. Do you think that if these courts are brought into existence, the chances of people coming forward with cases would be greater?

A. I cannot say anything definitely on that matter.

Q. Would you allow these marital cases to be compounded with the sanction of the court, or without it, as the circumstances might require?

A. If there is a guarantee that bad relations would not come up again, that might be done.

Mr. Bhargava: What do you mean by this sentence: "The absence of social restrictions governing marital relations, I think, naturally reduced the necessity for criminal intention or action"?

A. That is so far as my village is concerned. Socially the conditions are not bad and therefore there is no crime.

## Written Statements of persons not orally examined.

**Written Statement, dated the 6th August 1928, of Rao Bahadur V. GOVINDAN, Calicut.**

1. Yes.

2. The age limit is too low, and as girls in this country do not develop their intellect so early, it is desirable that the age limit should be raised.

3. Comparatively speaking these crimes are not of very common occurrence in these parts.

4. The training of a girl to lead an immoral life begins much early, and whether actual cohabitation takes place or not, she is for all practical purposes morally ruined. Law must provide for the prevention of such training of girls for immoral purposes at the hands of interested parties.

4. Cohabitation with married girls below 13 is very rare in these parts.

5. Girls attain puberty about the age of 14, and it may be said to be the case in almost all the communities in these parts. It is rarely a girl attains puberty before she is 13.

6. (1) No.

(2) Rarely. It may take place when the girl is well developed and of strong constitution.

(3) Very seldom.

None of these cases come to Court if the girl is married to the man who cohabits with her, but it is another matter if he is not the husband of the girl.

7. So far as the natives of Malabar are concerned, there is absolutely no religious injunction that the girls should be married, and that consummation of marriage should take place before puberty. On the other hand, religion does not object to a girl remaining even unmarried if she is so inclined or if she is not able to get a suitable husband. The highest caste of Malayalee Brahmmins known as Nambudris do not consider it a degradation for their women to remain unmarried till their death, but after death and before the cremation of the body, it has to undergo the formalities of a marriage ceremony. There is always a number of their women who are obliged to remain unmarried, on account of caste rules according to which only the eldest son in the family can contract a legal marriage with a woman of their own caste. These Nambudris are certainly the highest type of Hindu Aryans as they exist now in India, and this fact has been even proved anthropometrically. The vast majority of them are well read in Sanskrit, and they observe all the religious injunctions and perform all their duties with the greatest scruple to the minutest detail. They are ultra orthodox in their habits and manners, and if such an advanced community of Hindus allow post-puberty marriage (or for the matter of that no marriage at all), all the talk about religious injunctions that marriage should be performed before puberty is without any valid reasons behind it. The desire to have an offspring is inherent in man, and some are anxious to have them at the earliest opportunity and in their eagerness to realise this strong desire, they at times, are even unmindful of the injury that such action causes to the immature girl wife. This practice which, has been going on for many centuries, has at last acquired the force of law and they call it religious injunction. The argument that religion is in danger should therefore be rejected once for all.

8. Yes—by Brahmmins and other sacred thread wearing communities.

9. Not invariably. Under normal conditions a girl should be 16 before she can be considered as fit for consummation without causing injury to her health.

10. The vast majority of Indian girls will not be able to realise the consequences of cohabitation before they attain the age of 18.

11. At the Bombay health exhibition a few years ago, I saw a small built Tamil girl who had given birth to a child, and it was said that the poor girl had suffered very much on account of that early maternity.

On the other hand, I know of another girl who gave birth to a child in her 12th year, she bore three more healthy children, and died when about 30 years of age.

A few examples like these may go either way.

12. Early maternity is certainly responsible for high mortality, and even in cases when death does not occur, the mother and child suffer a good deal from the evil effects of it.

Early consummation is not so very serious, provided that conception is avoided by following certain well known natural laws, and provided also that the girl is physically well developed and is of a strong constitution.

13. Educated people think that it is desirable to extend the Age of Consent.

14. There is a natural tendency in that direction, but they do not do anything to quicken the process.

15. There is always difficulty in determining the age of a girl, especially if she is of stunted growth.

16. It is not likely that much good would result by raising the Age of Consent to 14, but it may help if it is raised to 18.

17. Marital offences should be treated with more leniency than extra-marital cases.

In the case of marital offences fine or simple imprisonment would be sufficient, but in extra-marital cases the present punishment should continue.

20. The fixing of a higher Age of Consent for marital cases would be less objectionable than the raising of the minimum age of marriage.

21. Social reform by education and propaganda is certainly preferable to penal law, but as matters now stand, law must be strengthened to achieve this object.

NOTE.—As regards the age limit I would suggest the following:—

- (a) In non-marital offences consent should not be accepted as valid if the girl is below 18.
- (b) For married couples age for consummation may ordinarily be fixed at 16, but in exceptional cases it may be reduced to 15, under a medical certificate granted by a lady doctor not below the grade of an Assistant Surgeon, to the effect that the girl is physically fit for cohabitation.
- (c) The minimum age for marriage may be fixed at 12. In exceptional cases the minimum age may be reduced to 10, provided the parties who wish to bring about such marriage do so, with the permission in writing, of a first class magistrate for reasons stated and proved to his satisfaction.

**Written Statement, dated the 9th August 1928, of Mr. V. K. VAIDYER, L. M. & S., Medical Director, The Aswini Clinic, Calicut.**

1. There is a dissatisfaction with the state of law as it is. With the awakening of social consciousness dissatisfaction for the Age of Consent as contained in sections 375 and 376 of Indian Penal Code, is widespread among the public, as evidenced by various public meetings all over the country and the writings in the press.

2. (1) Nothing in my opinion favours the retention of the present law.

(2) No girl has the necessary physical development for motherhood at the age provided in the law now exists. The children conceived at an age when the physique is unfit to stand the strain of maternity in its various stages are bound to be weak. The health of the mother in a majority of cases is shattered beyond repair. The mother and the child or children may

seem healthy; but they are not really so. Hence they are easily susceptible to diseases and the recovery is not generally so easy and certain as in the case of mothers fully developed. So the retention of the present law is providing facilities for the production and continuance of physically degenerate people. This is highly detrimental to the general well-being of the society and the nation, not to speak of the consequent economic loss to the state.

3. The crimes of seduction and rape are not common in this part of the country. This is not due to the amendment of 1925, raising the age to 14 years. When cases of this sort take place they are often kept secret. For, the people are afraid of bringing it before the public lest it should inflict a stigma on the girl in particular and on the family or community in general. But there is procuring of girls for commercialised vice in big towns. Even girls at the age of puberty are decoyed from their homes on false pretext and lured into prostitution. And they realise their position too late. Raising the age to 14 is not of any help in these cases. Many such cases in existence pass easily unnoticed. Trusting entirely the police for the detection of such cases may not be effective. I would, therefore, suggest the formation of vigilance societies with women in it to help the police. The raising of the age sufficiently high, with proper mental and physical development will help the reduction of such cases.

4. Raising the Age of Consent to 13 within marital state has not been an effective protection for married girls against cohabitation with husbands within the prescribed age limit.

(1) Postponing the consummation of marriage cannot be effective if the parties concerned think otherwise. Among people in general the inclination is to have the consummation ceremony performed soon after the puberty if the girl is married before puberty or along with the marriage if she has already attained it. For, they feel that their responsibility is over thereby.

(2) Stimulation of public opinion cannot be said to have been entirely absent. Some parents do postpone the consummation ceremony. But the said fact is "the public opinion" does hardly affect action in the home or the family. In matters social, the general tendency is to practice an amphibian life in varying degrees. So it should be regretfully admitted that stimulation of public opinion will not be of much help to give sufficient protection.

(3) Putting off marriage beyond 13 has been effective to an extremely limited extent.

So the effective method is not to allow the marriage of girls who are not really grown up. This necessitates not only marriage after puberty but even a few years after it. If this is to take place, the conservative section of the society may raise a hue and cry that the religion is at stake. But the State which has the welfare of the society in view should not pay any heed to such an uproar. Their objections are entirely discredited both by common experience and the facts of science. To them religion means "what is professed by the priest and practised by the laity". Perhaps such a religion will be dangerously at stake. But sooner such faulty notions of religion are shattered the better for true religion.

5. The average age of puberty for all castes, communities or classes in general may be put at 13. But there is a variation in different castes, communities of classes. In communities where early marriage is the rule the girls attain puberty between 11 and 12. In other communities between 13 and 14, and among the working classes generally after 14.

Race and climate have influence on the onset of puberty. A luxurious life with rich food and sedentary habits and mental and emotional stimulations favour an early onset. The social conditions play an important part in this. In communities where early marriage and early motherhood are common as among the Brahmins the onset of puberty is earlier than among the others. Here rarely does a girl pass her 12th year without attaining puberty. In these communities, marriage is no novel idea to a girl of 8 or

9 while in other communities it is not so. This familiarity about the marriage furnishes mental and emotional stimulation consciously or unconsciously. Further it is natural to have an early onset of puberty where the average age of first pregnancy is not over 14. From an analysis of the maternity cases in one of the baby welcome centres here I find that the average age of first pregnancy is 19 among the working classes. *Vide* Appendix A.

6. (1) I do not think that cohabitation before puberty is common here.

(2) I should think that cohabitation soon after puberty is not at all uncommon where there are facilities for it, *i.e.*, an early marriage when the girl and her husband are allowed to live together soon after puberty and where the consummation ceremony is performed soon after the appearance of puberty.

(3) Same as (2) of this answer.

None of the cases come to Court. For, the people in general never consider this an offence where there is the social sanction for the same. And the general impression is that it is the privilege of the husband to demand and the duty of the wife to yield to such cases. So even if anything untoward happens no serious notice is taken of it except as an unfortunate accident. Even medical aid is not properly given. This state of affairs really calls for a penalising legislation.

7. The people who practise early consummation of marriage say that it is a religious duty.

8. This ceremony is practised only among the exotic section of Brahmins. Very often the ceremony is not delayed much and it depends on the convenience of the parties and the financial condition of the girl's parents. However, the parents are anxious to have it as early as it could be done.

9. The attainment of puberty is not at all an indication of the physical development to justify the consummation of marriage. The attainment of puberty only indicates that the girl has just entered the period of sexual maturity. But a number of changes, physical, mental and emotional, follow the onset of puberty. These changes go on till about the 20th year. Then only the woman becomes fully developed. At the attainment of puberty the uterus only takes the form of an adult organ. But the growth goes on till the 18th year and in some cases till the 20th year. Further the bony union of the different bones forming the pelvic bone does not take place before this time. So I would recommend "Eighteen" as the minimum age when consummation can take place without injury to her own health or to that of her progeny.

10. It is rather a difficult question to be answered. But it may be safely said that a girl could give a competent answer at 18. Besides we have the 18th year fixed for the attainment of majority for legal purposes.

11. Cases of injurious effects out of cohabitation before puberty have not come to my knowledge. But cases after puberty and before full development are not common. I have been often consulted regarding the improvement of the health of the mother and the child or children in those cases. When I speak to such people about the inadvisability and the injurious effects of an enforced motherhood on a girl of tender age they all appreciate it. In many instances the children are puny creatures and some of them do not live long. But it must be said here that there are cases where they are alright. After the first delivery the mother rarely remains robust in health. Cases resulting in the death of the mother, her progeny or both have also come to my knowledge. *Vide* Appendix B for cases.

12. The early consummation and the early maternity are largely responsible, where they exist, for the high infantile mortality. Poverty and insufficient and improper maternity aid are also some of the other main causes. The Brahmins who follow the custom of early consummation resulting in early maternity are comparatively better off than the others. But the infantile mortality amongst them is high due to mainly early maternity. But in the case of working classes where early maternity is rare—average age of 19

pregnancy 19—the infantile mortality is due to poverty and insufficient and improper maternity aid mainly. The following few instances amongst facts gathered in connection with my food investigation work among the poor people of this town will show the extent of their poverty: (1) 1 adult, 2 children—2 annas a day; (2) 6 adults, 5 children—12 annas a day; (3) 5 adults, 5 children—10 annas a day; (4) 3 adults, 3 children—4 annas a day.

13. There is a further development of public opinion in favour of raising the Age of Consent. The support given by the public meetings and ladies' associations is a clear expression of opinion favouring the bill to raise the Age of Consent. But I may state also that the main sections of society here are not concerned with the Age of Consent as the age of marriage is generally high, not below 16, among them. However the public opinion is for the raising the Age of Consent.

14. Among those who follow pre-puberty marriage as a compulsion, the women do favour the early consummation. But I would qualify it by adding that they favour it rather unwillingly. The early consummation of the marriage gives the girl troubles and sufferings. The mother knows them well from her own experience. With all that, she agrees for the early consummation. For, she is afraid of being exposed to the pointing finger of scorn when she does not do what all others do rightly or wrongly.

15. It is rather difficult to fix the age when the maximum age is only 14. To minimise the difficulties my suggestion is to raise the age to 18.

16. I should think that the difficulty or margin of error will be materially reduced or minimised by raising the age to 18.

17. Strictly speaking the injurious effects produced by offences whether marital or extra-marital are the same and as such both the offences are alike. But some consideration has to be made in favour of the marital offences. For, the husband has the responsibility to look after the wife and the progeny. Whereas in the case of extra-marital offences, the offender has no responsibility, or legal or otherwise, to look after her and her progeny. Hence the extra-marital offences should be met with a more severe punishment than the marital offences.

18. I do not suggest any difference in the method of trials in these cases. But I would suggest that the trials should be conducted in camera; in all cases.

19. I think I better leave this question unanswered.

20. I am of opinion that legislation fixing the minimum age of marriage is the only effective method. This legislation will have the public approval.

21. I would prefer to rely on the strengthening the penal law, to secure the object in view. But at the same time social reform by means of education and social propaganda should not be neglected. In fact all these three should be simultaneous. For, social reform by education and social propaganda is greatly strengthened by penal law.

#### APPENDIX A.

*An analysis of maternity cases recorded at the Baby Welfare Centre at Chalapuram, Calicut.*

Total number of pregnancies recorded . . . . .	227
Of this total number of first pregnancies . . . . .	46
The average age of first pregnancy . . . . .	18-9130
Percentage of first pregnancies according to age:—	
At 16th year . . . . .	Per cent. 13
.. 17th .. . . .	20
.. 18th .. . . .	30
.. 19th .. . . .	4
.. 20th .. . . .	9
.. 21st .. . . .	4
.. 22nd .. . . .	11
.. 23rd .. . . .	7
.. 30th .. . . .	2

Classified according to the communities:—

**Hindus:**

Total number of first pregnancies	38
Average age of first pregnancies	19.0263

**Muhammadans:**

Total number of first pregnancies	8
Average age of first pregnancies	18.3750

N.B.—All the people attending this centre are poor labouring classes.

## APPENDIX B.

Case No. 1. *Pregnancy at 12.*—Delayed labour. 3 days in pains. Not proper medical aid. Dead child is delivered. Mother died 17 days after the delivery. (Brahmins.)

Case No. 2. *Pregnancy at 13.*—Delayed labour. 2 days in labour pains. Delivery; forceps C perforation. Parts lacerated. Stoutly objected immediate removal to hospital. 3rd day removed to the hospital. Patient in a very precarious condition. Discharged from the hospital after 6 months. Continuous diarrhœa. Remained outside the hospital for 2 months attending welfare centre. Admitted again into the hospital. Diarrhœa diagnosed tubercular. Discharged from the hospital after 2 months. Death a month afterwards.

N.B.—Mother of this patient delivered her in her (mother's) 13th year. She committed suicide a month after the death of her daughter. The alleged cause for suicide being the fate of her daughter. (Muhammadans.)

Case No. 3. *Deliveries by the 24th year.*—First delivery at the 15th year. Puerperal mania following regularly the first six deliveries. Child neglected. Child dies within a month. 7th delivery; ante-natal care at the welfare centre. No puerperal mania. Child fed on artificial foods, mainly glaxo. Child died a few months after delivery. Marriage about the 12th year or so. (Hindu Fishermen.)

Case No. 4. *Delivery at 15.*—Premature at the 7th month. Immediate medical aid. Diagnosis: Placenta previa. Marriage about the 14th year. Husband about 45 years, sturdy, well built. His 3rd marriage. Girl not developed physically. (Muhammadans.)

Case No. 5. *Delivery at 14.*—Natural, full term. Child puny and weak. Child died within a month. Marriage about the 13th year. Husband about 20. Both husband and wife weak. (Muhammadans.)

## Written Statement of Mr. P. P. KUSHALAPPA, M.L.C., Basvapura, Tittlmati P. O.

With reference to your letter of the 24th July 1928 the following are my views of the question:—

1. In Coorg which is my province all classes of people except the Brahmins observe adult marriage system. There is not much dissatisfaction with the law in general.

2. I am for an advance on the present law with a view to improve the people of India all round.

3. Rape and seduction are not frequent in Coorg.

5. In Coorg girls attain puberty about the 14th and 16th year of age. It is a bit earlier among the people that observe early marriage.

9. I do not think that the attainment of puberty is a sufficient indication of physical maturity. Three years after puberty at 18 years of age is the minimum time to consider marriage harmless.

10. It is about 18 years of age.

11. In Coorg infantile mortality, labour complaints, and deaths in confinement are common domestic distresses. One of the causes of such a state of affairs is the system of marriage soon after puberty between 14 and 16 years of age when the girls will not be sufficiently developed both physically and mentally to become mothers.

12. Yes.

13. There is a desire to extend the Age of Consent confined to the classes that observe early marriage system.

14. Yes; early after puberty.

As a layman I do not like to answer the rest of your questions of law which I would leave the lawyers to handle.

**Written Statement, dated the 8th August 1928, of Mrs. N. SUBBA  
RAO, Mangalore.**

1. The masses are indifferent; the orthodox people would like to have freedom, but a good number of the educated are dissatisfied because the provisions do not go far enough. The age-limit requires to be raised.

2. (2) I am for making an advance on the present law because medical opinion is in favour of it. Early consummation retards the physical as well as mental development of the girl and is injurious to her health and progeny. It also gives no scope to her to enjoy the short period of care-free and happy girlhood. It burdens her too early with the cares and anxieties of a home and children. She does not have sufficient time to complete the education she ought necessarily to receive before she becomes a mother and a house-wife. There have been instances when girls who could afford school education were withdrawn from school owing to early consummation. She has inherited no doubt, high ideals of love, devotion, and sacrifice regarding her duties in the home. But she must also be older and more enlightened to be able to have an adequate idea of the proper duties and responsibilities of wifehood and motherhood and her important share in the prenatal influence on her child.

6. (2) There are some cases.

(3) Rather rare.

7. No. It has become a practice consequent on the custom of early marriage. The custom of early marriage itself was not enjoined by religion but adopted as a necessity for the protection of young girls during the times of the foreign invasions in our country.

9. No. The attainment of puberty is not a sufficient indication of physical maturity to justify consummation of marriage. At least three years must elapse before a girl's physical development can be considered to be enough to justify consummation.

10. Not before sixteen, though it would be better if she were eighteen.

12. Yes, accelerated by poverty and lack of education.

13. Yes, the development of public opinion is steady and sure though not so rapid as could be desired. It is more or less general.

14. No. Not much. As they know the evil results of such a practice on their children.

18. Yes. I would separate marital and extra-marital offences into different offences. The latter ought to be severely punished. The former are only due to early marriage.

20. Legislation fixing the minimum age for marriage would be more effective than merely raising the Age of Consent. It is not always practicable to enforce the Age of Consent Law on girls and boys who are married.

21. Both expedients are necessary. One will help the other.



**Written Statement, dated the 8th August 1928, of Dewan Bahadur  
N. SUBBA RAO, Avl., Mangalore.**

1. The masses are indifferent. The orthodox people would like to have freedom but a good number of the educated section are dissatisfied because the provision do not go far enough. The age-limit requires to be raised.

2. I am not in favour of retaining the law as at present for it is not effective in practice. An advance should be made, for it is only then girls will be protected in their girlhood from the rapacious passion of some persons. A girl no doubt attains majority in India a little earlier than in England on account of climatic and other conditions. Early consummation is bad for the development of the girl and injurious to her health and her progeny. The rock of orthodoxy and passion is very hard and requires constant knocking by advance in age by reasonable and suitable stages. It must be also stated that public opinion on account of the economic condition, education, and other reasons is veering round rapidly towards real and substantial reform.

3. Crimes are not very frequent. I think the amendment of the law has installed a little fear even among orthodox section. At the same time, the next stage of advancing the age may be taken up by raising the age and by inflicting by the Magistrates proper punishment prescribed by the penal clause. In the beginning a lighter punishment may have been necessary to accustom the people. The Magistrates should tighten the grip.

4. Yes, to a great extent. In some cases, cohabitation does take place before the girl is 13. It is so difficult for the police or others to detect such cases. The practice is mostly common among widowers and grown-up husbands. The cases are rare among husbands who are 2 to 4 years older than the girls. I am therefore in favour of all the three suggestions. The policy of the Government is strict neutrality in religious and social matter. To a certain extent, it is a good policy for a foreign Government to follow in the beginning and leave the changes to the people themselves. But I think it is the fundamental duty of Government to take the initiative and effective steps even by legislation whenever the change is for the good of the people. There is no doubt that the present state of things should be bettered by raising the Age of Consent as there are conclusive proofs for the same on medical and economic grounds. Has not the Government abolished *Sati*, and passed the widows re-marriage act, and taken many other legislative and executive steps for bettering the state of the people?

5. The usual age is between 12 and 14 and in rare cases before 12 and after 14. I think Brahmin girls attain puberty a little earlier than non-Brahmins including Muhammadans and Christians.

6. (1) Very rare. It is only the morbid deceased passion or the brutality of some that may commit this inhuman act.

(2—3) It is not very common. Among non-Brahmins it is very rare. The law has put some impediments and thus the cases are fewer. Consummation among Brahmins and the well-to-do non-Brahmins may take place in the very month the girl attains age without consulting the astrologer. After that period the astrologer has to be consulted for fixing an auspicious day and sometimes, a month or more may intervene. These cases are not placed before Courts as it entails sensation and disgrace unless an enemy or a Police Officer brings it to light.

7. It is not at all any religious injunction but on the other hand the Shastras do require that 36 months should elapse after the girl attains puberty. As the devil can quote scriptures, people under the cloak of religious injunction and under the battle cry of "Religion in danger" raise opposition against any step towards reform.

8. The actual Garbhadan ceremony is performed after puberty just before consummation. The consummation depends upon various circumstances—age of the husband, whether he is a widower and many other circumstances. In strictly orthodox families chiefly among Brahmin priests, the girl who has

attained puberty cannot prepare food or Naivedyam for the Gods. The present time has brought changes both among the priests and educated people. The ceremony is postponed for some time among the priests and the ceremony is not often performed for the consummation of marriage among the educated youths.

9. The attainment of puberty is not certainly an indication of physical maturity. At least 3 years after the girl attains puberty, consummation may take place.

10. Three years after puberty. After 15 or 16 years for the present.

11. There have been some cases after puberty. The age is between 13 and 15.

15. The progeny is often weak and infant mortality is more.

12. I am convinced that it is so in at least 95 per cent. of cases. Poverty adds considerably to the deterioration of the race.

13. Yes. The development of public opinion is steady and sure though not as rapid as I would wish it to be. The development is more or less general. It is only the orthodox section that is moving slowly but still the onrush of reform is too great for them. I wish to state that early marriages are not confined to Brahmins alone but some communities among non-Brahmins do follow the custom. The marriageable age among the non-Brahmins including Muhammadans and Christians was pretty high but of late the tendency is to lower the age.

14. I do not think women are a whit behind. The activity of women's associations is a sure indication that women are taking the lead now. I believe even the purdah will disappear in Northern India in the course of a few years. Men often put the blame on the ladies who are as a rule dutiful and obedient to the will of the husband and the elders. Such men lead a double life—talk and never take action.

15. Not very great difficulty. It is only in cases of the borderland the difficulty of fixing the age arises. Much depends upon the personal of the doctor and the clever cross-examination of the lawyer.

16. Certainly.

17—18. The maximum punishment may be a little raised. It can be left to the legislature who can fix it under the then circumstances.

19. No amount of change in law can help the matter. The present safeguards are sufficient. Much depends upon the civic duty and conscience of the police and the people.

20. I am in favour of raising the minimum age of marriage and leave the consent for marital cases to the good sense of the people. Of course, it depends on the age-limit. If the marriage age limit in the case of girls is raised to 16 and of boys to 21 we need not bother about the Age of Consent. But if it is 14 and 18, I would fix one more year in the case of girls and two for boys for the present. We can then raise both the ages in course of time. Public opinion is rather divided. As far as the masses are concerned, I do not think there will be any vocal demonstration. In the case of the so-called educated orthodox section, there will be meetings and the press will be requisitioned and great agitation will be put up. But when the Government passes the law, all will submit. There will be no satyagraha.

21. Both expedients are necessary. One will help the other.

**Written Statement, dated the 11th August 1928, of Mr. A. K. T. K. M. NARAYANAN NAMBOODRIPAD, Desamangalam, Shoranur.**

In view of the fact that the existing law as to the Age of Consent as contained in sections 375 and 376 of the Indian Penal Code and the relevant sections of the Code of Criminal Procedure are practically unknown to the vast majority of people in these parts, it is rather meaningless to talk of

dissatisfaction with the same. Speaking from my own experience I can say that very few people hereabouts not directly connected with the administration of the law have given attention to the legal aspect of the problem of early marriage and premature sexual intercourse either within or without the marital relation. But it may be said that there is a growing volume of opinion among thinking members of the better educated classes that it is properly within the sphere of the State to regulate where necessary, by legislation the conditions and limits of marriage and cohabitation. Broadly speaking, the conviction is growing that too early marriage including consummation of marriage has contributed to the physical and intellectual deterioration apparent in almost all communities. In my own community, *viz.*, of Namboodry Brahmins, various circumstances have contributed to the infrequency of pre-puberty marriages. First our joint family system has necessitated or encouraged the practice of only the eldest son of a father marrying in our own community. This involves the consequence that the demand for bridegrooms for girls of marriageable age is much more than the supply. So that it is almost impossible to find out suitable husbands for our girls before they attain puberty. Probably because of this practical difficulty the practice of the younger sons forming "Sambandham" with women of non-Brahmin communities and of girls being married after puberty grew up in Malabar among Namboodry Brahmins who in other respects are a very orthodox community following the injunctions in the Smritis; and the practice is said to have the approval of Sri Sankaracharya who is reputed to be by birth a Namboodry Brahmin. But this very difficulty of finding suitable husbands leads to early marriage (pre-puberty) in rare cases when a suitable match offers which might be lost if not immediately availed of. One other practical result of the above state of things is that marriages in our society are often exchanges in the sense that two male members of two different families marry each a girl at the same time from the other family. In such cases a dowry may not be generally required. But otherwise large sums ranging from Rs. 2,000 to Rs. 12,000 have to be paid as "Varadakshina" to a suitable bridegroom. The eldest sons in our families are also obliged very often to take more than one wife to facilitate by way of exchange the marriage of a girl of the family. In our own community, therefore, there is hardly room for complaint as to the actual age of marrying girls being too low. Among Tamil Brahmins, however, settled in villages in these parts, the problem takes the form of increasing difficulty for people of small means to get their daughters suitably married before puberty. This pressure from below is also helped by the reluctance of young men to marry before completing their education. Hence, the actual age of marriage as distinguished from consummation thereof is itself gradually rising. While it was not uncommon about 20 years ago to find girls being married at eight or nine it is extremely rare for a girl to be married in these days before she is 11 or 12. Apart from this aspect of the problem educated opinion among Brahmins at any rate favours rising of the age for consummation of marriage. Among non-Brahmin communities such as Nairs, Ambalavasis and the so-called lower castes the distinction between marriage and consummation hardly exists and actual conjugal life begins with marriage. Among them pre-puberty marriages are rare. The few cases which occur may be explained among communities following the Marumakkathayam or Matrianchal system of inheritance with impartible property owned in common by the predilection of the head of a family to get as his son-in-law a favourite nephew or the supposed special advantages of a marriage connection in a particular case.

2. I am generally in favour of making an advance on the present law with regard to the Age of Consent. This I think would be justified by the following circumstances :—

- (i) The present limit of 13 is hardly sufficient to allow of the full physical and intellectual growth of the girl and placing her in a position to give any real or intelligent consent to sexual intercourse.

- (ii) Such an advance is warranted by educated public opinion. All the reasons underlying the raising of the age from 12 to 13 apply with almost equal force to the proposal to raise it higher, the idea being to bring the actual practice into line with what educated opinion regards as necessary for the welfare of the nation.
- (iii) It would be only in accordance with the actual practice in the better class and educated families in which consummation of marriage is hardly ever permitted before a girl is 15 or 16.
- (iv) Communities such as my own in which marriage takes place after puberty and at a comparatively late age, say, 16-20, have only benefited from the practice.
- (v) It would encourage the education and more especially higher education of girls and even of boys by not distracting them from their studies.
- (vi) In a poor country like India economic reasons favouring, if not necessitating, restraint on child-birth, late marriages would tend to serve as a preventive on unlimited multiplication of population.
- (vii) The law if it raises the age to 14 or even 16 is not likely to be odious or harsh in working. Evasions of the law, no doubt, would occur then as now. But in a matter of this sort this is inevitable.

3. The offences of seduction or rape are rare in this part of the Presidency and I do not think that the amendment of the law in 1925 has had anything to do with this for the simple reason that the law itself is hardly known to common people. But it has to be pointed out that in Malabar among many populous communities including even socially and culturally high classes such as the Nairs the marriage tie as an indissoluble union is practically non-existent. Women of other communities are even now, unless married to persons imbued with high modern ideas generally visited in their own houses by their husbands who do not take them to live with them. Their children are members of their own as distinguished from their husbands' family. The family property is kept joint and not partible at will and inheritance is traced through females. Whatever the origin of this Matriachale there is no doubt that it has led to a good deal of looseness and promiscuity in sexual relationship. Hence offences against marital life which might in other communities be regarded as crimes are seldom regarded as such. In such state of things consent is easily obtained and paternity of particular children is often denied by husbands. (See a recent instance in a case for maintenance under section 488, Criminal Procedure Code, reported in 52, Madras Law Journal.) These circumstances explain the rarity of prosecutions for rape and other sexual offences in these parts. With the progress of education especially among ladies rapid improvement towards fixity of marriage tie is taking place.

4. As far as I am aware the law has not had the effect intended; because those who most need restriction enforced by legal sanction are unaware of the law itself. It may be that there is a general progressive movement in the direction indicated by sub-headings 1-3 under this question. But that movement cannot be attributed to the legislative change.

As regards the steps required to make it effective I would suggest the following:—

- (i) Very wide publicity to be given to the law so that people may clearly understand that they run the risk of punishment. This will be very effective in these parts as whatever their socio-religious opinions may be, people are terribly afraid of the law and this would be an appropriate occasion for society being reformed "by act of Parliament".
- (ii) A very vigorous propaganda on the lines of the health-week celebrations must be carried on to instruct parents as to their responsibility in this matter.

(iii) Instruction upon this subject may well be included in the curriculum of higher education both in boys' and girls' colleges.

(iv) The law must also throw a heavier duty on parents to avoid consummation before the age-limit by making them liable as abettors of the offence irrespective of actual abetment.

5. The age of puberty in these parts varies from 12 to 15, most cases occurring at 13—14. Puberty is attained earlier among the well-to-do classes in which the women do not generally have to work for their living, but lead mostly a sedentary life. It occurs later among working class girls especially in rural parts. This is my general impression.

6. (1) Cohabitation before puberty is very rare.

(2) This is very common and in fact among many classes of people, Tamil Brahmins included, this is regarded as the proper thing especially by mothers and fathers of the older generation. According to them sexual cohabitation should begin during the 16 days following the appearance of menses.

(3) This depends on whether she has or has not attained puberty. If she has, the facts that she is below 12 is not regarded as a bar. But in practice such cases will be few.

(4) None of these cases, as far as I know, has ever come to Court a fact which may be due to ignorance of the law and of the protection afforded by it to girls or to reluctance to bring before the public gaze facts which can reflect little credit on the parties and community concerned.

7. I am not aware of any practice of consummating marriage before puberty. There is, however, the practice of consummation at puberty. There is a general impression that this is based on injunctions contained in the Dharma Shastras. For Example, *Manu*, Ch. IX (4), (88), (90), (93), Ch. III (45), etc. *Yajñavalkya*, 1—3 (64), (79). *Parasara*, IV—13-14, etc.

A careful study of the above texts in the contexts where they occur shows, however, that they do not enjoin the consummation of marriage immediately on the appearance of the first menses. The injunction if at all can in my judgment be only regarded as pious recommendations and not strict rules to be obeyed at any cost. Except vague statements as to the sin committed by not acting according to them no other penalties are seen to be prescribed. But I cannot claim to have made a deep study of this matter.

8. Garbhadana ceremony is invariably performed among Tamil Brahmins as well as the Namboodry Brahmins; and it is in fact the consummation of marriage being the first act of sexual connection amidst utterance of Mautras for the purpose of generating a son. It is performed only after puberty and presupposes that the wife is fit for sexual connection. According to old orthodox practice it took place among the 16 days following puberty. But now-a-days an interval of some weeks or months generally takes place and very seldom is it performed before the second appearance of menses. This ceremony is non-existent among non-Brahmins.

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9. I certainly do not consider that the attainment of puberty meaning the first appearance of menses is a sufficient indication of physical maturity to justify consummation of marriage. Considering the early age, most commonly 13—14 at which puberty is reached, physical development in the ordinary sense is not complete at that stage. While the bare physical act of cohabitation may be possible, all the subtler, emotional and intellectual pleasures of real union cannot possibly be expected when the wife is so young. I think it is also not possible for her to understand the real nature and consequence of the act. Further the consequence of impregnation and child-births following the sexual act cannot but result in unnecessary pain and even danger to life of the mother and the weakness and inferiority of the offspring. The second part of the question is more difficult to answer. Still I think that at the age of 16 or 17 a girl may be considered fit for conjugal life. I may point out in this connection that the "Ashtangahridaya" of Vagbhatacharya, a recognised authority on the Ayurvedic system advocates marriage for the women when she has completed 16 and for the man when he has

completed 20 and adds that the progeny of such a marriage alone can be strong and healthy. See Ch. I, 8, 9.

10. While it is a fact that girls are in these parts precociously wise or at any rate more or less informed regarding sexual matters in very few cases do they realise the full consequence of the sexual act and the responsibilities of maternity. Often even after two or three child-births they are reckless and do not consider this aspect of the matter. As regards their capacity to think about and understand these matters, I think it may be safely presumed that they have it at the age of 16 or 17.

12. Along with poverty, lack of education and the tyranny of unhealthy custom, I think, early consummation and early maternity responsible for high maternal and infantile mortality and the general deterioration of the race. Too many children are born for each marriage and less care and attention are necessarily bestowed on each child. With the increasing cost of living and cost of education and cost of marriage of girls the struggle for existence is very severe, and nothing but a very low standard of bare sustenance is possible to most middle and lower middle class families. Even in higher circles children born of too early marriages are of inferior intellect and the parents' vitality is dissipated before they themselves have reached the height of their own development.

13. As already stated the Act of 1925 has had little to do with what public opinion there is in these parts in favour of raising the Age of Consent. In such opinion as exists in favour of a progressive extension of the age no line can be drawn to mark any further development since 1925. The opinion itself, as already stated, is shared only by educated and thinking members of the Brahmin community and castes such as Nairs equal to that community in educational matters in Malabar.

14. There is a general inclination among women to have grandchildren by their daughters and to see them married and settled, if possible, before they die. This makes them favour the early consummation of marriages.

15. As cases relating to girls under 14 are very rare the difficulty regarding determination of age has not arisen in practice.

16. I do not see how the raising of the age by itself can affect the question.

17. I think it is necessary to separate extra-marital and marital offences into different groups. At any rate until people get thoroughly accustomed to the idea of the offence within marital relationship this seems necessary to avoid harshness. I also think on grounds of expediency such a distinction is necessary and will be more in accordance with our ideas as to the relationship of husband and wife.

As regards punishment I am against imprisonment for offences within the marital state. I think a system of fines to be paid as compensation to the wife will better meet the needs of the case. After all the idea of punishment in these cases is not merely deterrent; for the harm would have been done already and will be permanent. So compensation seems to me to be a better principle. Heavy fine, therefore, is the most desirable sort of punishment. For offences of extra-marital state, I think, the existing penalties are ample.

19. The existing safeguards seem to be sufficient.

20. I think a judicious combination of penal legislation fixing a higher Age of Consent and legislation fixing the minimum age of marriage will be necessary to meet the needs of the situation. Orthodox opinion would be very much against the latter if the minimum is the age of puberty. But even orthodox opinion cannot have anything serious to urge against raising the Age of Consent. It is difficult for me to say which by itself will be more effective. I am also unable to say which alternative would be in consonance with public opinion here for the reason that public opinion is not sufficiently clearly formulated. The labours of this Committee would probably help people to think clearly and form a conclusion on these matters.

21. While recognising that social progress must come from education and the progress of public opinion, I do think that the course of progress can be appreciably helped by legislation on the lines indicated. The social reform movement has yet hardly touched the heart of the masses of the rural population and is not sufficiently strong or dynamic to effect the needed reform in an appreciably short period. Penal legislation will concentrate attention on the goal and gradually make people realise that law is after all only the reflection of popular opinion.

In conclusion, I may add, that I shall be willing to give oral evidence before the Committee if the Committee are pleased to think that it would help in the solution of the weighty problems which lie before them.

**Written Statement, dated the 12th August 1928, of Mrs. B. KALYANI AMMAL, Superintendent, Government Secondary and Training School for Women, Mangalore.**

According to my own humble opinion, if the age of marriage is fixed by law to 14 or 15 or in any case if pre-puberty marriage is penalised there would be no necessity for any such thing as an Age of Consent Bill.

**Written Statement, dated the 13th August 1928, of Mrs. GAURI SANKUNNI, M.A., L.T., Superintendent of the Government Secondary and Training School for Women, Cannanore.**

1. There is. Of the 5 descriptions given as to when "rape" is committed, description 4 is not clear at all in its latter part; the clause "because she believes that he is another man to whom she is or believes herself to be lawfully married" presupposes ignorance and to some extent stupidity on the part of the girl. This may be because the law was framed at a time when the girl was a wife when she was incapable even of discriminating whether a man was her own husband or not.

Description 5. "Under fourteen years" hardly suffices. Even a girl of 15 and 16 will not have practically attained that inner vision of right and wrong, that strength of moral character which comes only through education of the higher faculties and the training of the will. To a girl of 15 or 16, in the V or VI Form, the world is a shifting phenomenon full of fun and frolic and she is hardly sensible of the fundamental value of the sex instinct in her and its wonderful sanctity. So the proposed change to "Sixteen" seems highly desirable, though even at 16, consciousness of the significance of the action can only be of a formative type.

2. (1) The law should not in the interest of the future of India be retained as it is.

(2) *Making an advance on the present law.*—Many are the reasons which not only justify, but make it an imperative necessity that there should be an advance made on the present law. Of these, to me, the lack of inter-relation between the physical and the psychic side of life seems most important. Of the purely physical disabilities a girl of 14 and 15 will have to face if widowhood and motherhood are imposed on her. Doctors like Dr. Bendon will be more competent to speak. But from the former point of view, it is a great pity, a silent yet deeply felt wrong done to womanhood that when her higher emotional faculties are yet to dawn, when the soul does not think of or yearn for conjugal felicity, when there is no psychic impulse of any kind in her, the girl should be compelled to face just the physical, yes, the brutally physical side of life and have all her vitality sapped, withering day by day in going through a non-responsive type of widowhood devoid of all the greater meaning and sense of responsibility and the nobler sentiments and when later on, with growth and experience, her mind wakes up and the sex instinct in

her crushed but never dead, blossoms forth with life's richest gifts of love and sacrifice and devotion then, alas! she is a mere wreck with absolutely no strength to function as a wife.

Therefore, and in view of the poor mental equipment of girls as far as hygiene, sanitation, mother-craft, domestic science and general culture are concerned, it is necessary that the Age of Consent should be raised to an age when a natural response to the situation can be had, or better still that child-marriages be penalised.

5. Thirteen. Not much.

6. (1) There is never cohabitation before puberty.

(2—3) In my part of the country girls generally marry late between 16 and 20, though sometimes instances of early marriage are seen too. I do not know of any case coming to Court.

8. This is not performed in our part of the country among communities known to me.

9. Not at all. At sixteen, at least three years after puberty.

10. At sixteen, though the word "intelligent" needs being qualified. For it may not still imply that higher intelligence constituted of the finer emotions, sentiments and aspirations which an average well-educated girl of 18 and 20 would have.

11. Yes, in a neighbouring family, a girl, a Roman Catholic Indian Christian, was married just at 13, within a month of her attaining puberty and she died of child-birth 9 months hence and every one said it was due to insufficient uterine development, lack of strength for child-bearing, etc.

12. Yes. The above is a case in point. In the villages and interior country parts, unpenetrated by the rays of education, early maternity coupled with lack of proper medical aid seems responsible for the high rates of maternal and infantile mortality. Here the spectacle of girl-mothers carrying lean rickety children with protruding bellies and ill-formed limbs are very common. That the intellectual and physical progress of the people is stunted by early maternity need hardly be iterated after what is said before. The pity is when some of my bright gems in school promising in every sense, innocent and full of interest in their work, are snatched away at 14 and 15 to wed, and to have their sensitive minds face many a rude shock.

The parents keep their girls in school not with a definite educational plan in view but just to let them be doing something till the first effective matrimonial bidding. This again has a retrograde effect on the intellectual life of the girls, since they do not take to school work with any far-sighted plan or well-conceived goal to work up to. Even girls who might take up University courses and go abroad to do research are kept away from doing so.

Physically, the mothers of the race show a weak constitution, irritable nerve, inability to nurse their babies, weak chest and sometimes symptoms of tuberculosis. In South Canara early marriage and tuberculosis go hand in hand as cause and effect. The law of association holds good here.

The off-spring of such mothers must naturally show mental and physical deterioration. The dwindling stature of the race is mainly due to early marriage and but for this we might have been a more intellectual race, producing many more P. C. Rays, J. C. Boses and C. V. Ramans and Tagores and perhaps we might have produced a Madame Curie too.

13. Yes, and it is general as was expressed unanimously by the Cannanore Ladies' Association, which I summoned and questioned on 11th August 1928.

14. No, they do not, except some rare mainly illiterate women.

16. It would be if the Age of Consent were raised to 16 or above.

17. Yes. The punishments prescribed in the sections appended seem all-right.

20. I do not think penal legislation fixing higher Age of Consent is likely to be more effective than legislation fixing minimum age of marriage. The latter (legislation fixing minimum age of marriage) will be more effective.



*Reasons.*—Once a girl is married, the man takes the law into his own hands and it is quite easy to transgress the age-limit and yet not have the offence brought to light. The girl suffers in silence through modesty and reserve, her parents even if they come to know have perforce to hush things up and the offender, upheld perhaps by tradition thinks little of what he has done and the effect of penal legislation is nullified.

Public opinion here is for legislation fixing the minimum age of marriage.

21. No social reform through education and social propaganda can mend the evil. The Penal Law should be strengthened and this seems a duty Government should solemnly undertake especially in view of what the other parts of India are suffering in regard to this matter (*vide* Miss K. Mayo's book "Mother India"). Let us not forget the warning truth of the poet Lowell, that—

"Time makes ancient good uncouth  
They must upward onward ever  
Who would keep abreast of truth."

It is the duty of each age to take one upward step. We must not *blame* the past, neither must we *perpetuate* the past.

**Written Statement, dated the 25th August 1928, of H. MANORAMA BAI, B.A., L.T., Mangalore, Government Secondary and Training School for Women.**

1. There is no dissatisfaction with the state of the law as to the Age of Consent, as contained in sections 375 and 376 of the Indian Penal Code, in this part of the country, for very rarely cases come to the law courts. The masses probably are not aware of such a law existing.

2. (1) The law as it is, has to be retained just to satisfy the orthodox section of the public. Else an advance on the present law should be a national concern.

(2) I would suggest an advance on the present law taking into consideration the physical deterioration of our people. The death rate in India, especially among children and women, is awful.

3. Crimes of seduction and rape are very rare in our part of the country.

4. (1) Yes; the amendment of 1925 has been effective in postponing, to a great extent, the consummation of marriage, among the educated classes mostly.

(2) Yes, it has succeeded in stimulating public opinion in that direction; mostly in towns, I should think.

(3) Yes, to a certain extent, it has been effective in putting off marriage beyond 13—among the more thoughtful section of the people.

In my opinion, the masses might be enlightened on the subject by propaganda work.

5. The usual age at which girls attain puberty in this part of the country, is between 12 and 14—and only rarely after 14.

(b) In the lower classes of society, the age of puberty is generally a little higher.

6. No, cohabitation is not common in our part of the country before puberty.

(2) Cohabitation soon after puberty was quite common especially among Brahmins—for according to old custom, the consummation of marriage or Garbhadan had to be performed on the 5th day after attaining puberty. But now with the advancement of education and social reform, this custom is very rarely observed, even among the Brahmins.

(3) No. It is very rare. No cases come to court.

7. I am of opinion, that it is not a religious injunction but only a social custom that got hardened into an unwritten law.

8. Yes, Garbhadan is usually performed in our part of the country. It coincides with consummation of marriage. It is performed always after the attainment of puberty. It used to be performed usually on the 5th day after attaining puberty and failing that, within 15 days after maturity, according to old custom, but now the parents generally desire postponement, from 1 to 2 years after puberty, especially among the educated section of the people.

9. Attainment of puberty is not a sufficient indication of physical maturity to justify consummation of marriage.

(b) 16 years may be considered to be enough for the physical development of a girl.

(c) At least 2 years after puberty, should elapse to justify consummation of marriage, in the interests of her own health and that of her progeny.

10. Sixteen years.

11. Cohabitation after puberty but before full physical development of the girl has resulted in injury to the health of the girl—nervous breakdowns and in weak progeny. The age of the girl usually then is within 14.

12. Yes. I do certainly hold that it is the most important factor which is causing physical degeneracy among the people at present. It also hinders intellectual progress among growing girls, inasmuch as early maternity, as the result of early consummation stands in the way of their education and puts a premature mental strain, of maternal cares and anxieties, on them, that dwarts them intellectually.

13. No. The public in our part of the country are indifferent, generally speaking, about an extension of the Age of Consent since the amendment of the law of 1925.

14. No. Women in our part of the country do not favour early consummation of marriage for their children.

15. Yes. Raising the Age of Consent to 14 may minimise these difficulties, while raising it to 16 will remove the difficulties.

16. Yes, certainly. The difficulty in determining the age will be materially reduced if the Age of Consent is raised to 14 years and it will be minimised if the Age of Consent is raised above 14, preferably to 16, as then the girl's physical development will be apparent.

17. Yes. In cases of marital offences, the punishment may be fixed only as a fine. Whereas in cases of extra-marital offences, the punishment may be imprisonment and fine.

18. Yes, the trials for offences, within the marital state, may be conducted in camera.

19. Education is the only safeguard beyond those existing at present, that I can think of.

20. I am of opinion that legislation fixing the minimum age of marriage is likely to be more effective than legislation fixing a higher Age of Consent. The public, I think, will prefer legislation, fixing the minimum age of marriage higher than the prevailing age of marriage, to penal legislation fixing a higher Age of Consent.

21. I would prefer to rely on the progress of social reform by means of education and social propaganda and not so much on the strengthening of the penal law to secure the object in view—for strengthening of the penal law, by itself will neither prevent persons from perpetuating the offence nor bring them to book while education and social propaganda will exercise an effective and healthy influence over people.

### **Written Statement, dated the 3rd November 1928, of Mrs. M. RAMA-BAI MADHAYA RAU, Mangalore.**

1. There is general dissatisfaction with the existing law on the Age of Consent among all progressive Indians and also such of the foreigners resident in the country who sympathise with the aspirations and efforts for national welfare and progress. In proof of this one may refer to the

numerous writings in the press and pronouncements from the platform on the subject. The resolutions of the various social conferences, women's associations and conferences, students' and youth league conferences and even of religious assemblies either urging reform or supporting measures directly or indirectly effecting a change in the present law are sure indications of this dissatisfaction.

2. 13 years is too tender an age to expose a girl to the grave risks of sexual intercourse with all its consequences. The margin between the previous and the present Age of Consent is so narrow that practically no good has resulted by the change. It may even encourage deception and hypocrisy in the parties and their parents in evading or escaping the law. Similarly 14 years is too early an age to presume a girl, outside marriage, to give her consent to the act in question with full knowledge of its consequences. In other concerns of life the age of majority is insisted upon, but why not in this matter where the consequences of the girl's "consent" is fraught with far graver consequences in every way?

Early consummation of marriage, as prescribed by custom under cover of religious injunction and permitted by the law as it is, is detrimental to society and the nation in every way as will be explained later under appropriate heads. It also exposes India to the contempt and ridicule of the civilised world as the home of an inhuman custom.

3. Crimes of seduction and rape rarely come to the notice of the public in these parts. From what one reads about the increase in commercialised vice in cities, for which the victims are recruited from the mufassal districts, it appears the raising of the Age of Consent to 14 has proved practically useless. The physical and mental conditions of girls at 14 are generally much the same as what they are between 11 and 13. So deception is easy to practise by the unscrupulous people profiting by the traffic.

4. (a--b) Perhaps to some extent in the urban areas where public opinion reacts more quickly to laws than in rural parts.

(c) Very rarely, as almost the result may be considered negligible. Only by penalising marriage under a certain age and raising the Age of Consent within it appreciably higher than it is at present.

5. It differs in different castes and communities. Among the Brahmans it is usually between 12 and 13. Among the other castes of Hindus it is between 15 and 16. It is so among the Indian Christian communities. In the Muslim community it must be between 14 and 15. From these facts one is led to deduce the significant theory: where early or child marriage is the prevailing practice, the age of attaining puberty is also correspondingly earlier. The Brahmana girls are married early and before puberty.

6. (a) There is no cohabitation before puberty.

(b) Yes. Very common and practically the rule.

(c) Yes, if the girl attains puberty by that time. In communities where marriage before puberty is obligatory consummation takes place as a natural sequence of puberty.

None of these cases come to the court for two reasons. In rural areas police vigilance in this connection is almost absent. Moreover the matter is somehow or other hushed up and prevented from coming to the notice of the police as the reputation of the parties and of their families is involved.

7. Among the Brahmans (and other Dwijas who are an inconsiderable minority) marriage itself before puberty is the rule enjoined by public opinion under some religious injunction. So its consummation at puberty follows as an automatic sequence of the marriage. The religious injunction seems to the passage from the Parashara Smriti (which is also recited during the marriage) which divides the various stages in a girl's life and lays down the rule that she must be married before puberty. It is not probable that the prescribed penalty for it is known generally. Whatever it may be it is rarely risked by people who like to remain in the caste. In cases where, for

some reason or another, the consummation of marriage is obliged to be postponed the husband and wife suffer various disabilities of a socio-religious nature, and their parents are subject to social ridicule. Where the interests in life are limited these conditions do operate in a peculiarly galling manner upon the affected parties.

8. The Garbhadan ceremony in these parts is the ceremony for the consummation of marriage among the Brahmins and other Dwijas. In the large majority of cases it is performed between the 5th and 16th day of the attainment of puberty. In other communities there is no Garbhadan ceremony.

9. The mere attainment of puberty cannot be considered a sufficient indication of physical maturity to justify consummation of marriage. Medical evidence says that the system is not prepared to bear the strain of it, much less its more serious consequence of child-bearing. The perceptible external changes at puberty are deceptive as indications of physical maturity. They differ in girls of the same age and depend upon other considerations than puberty. Food, environment and psychological conditions seem to have much influence with the state of physical appearance.

As said in answer to (5) the earlier the age of marriage the earlier the age of attaining puberty. So the longer must be the interval that should elapse between the attainment of puberty and the consummation of marriage. In such cases at least 4 or 5 years must be the minimum period of interval. 16 to 18 years may be considered the proper age to justify the consummation of marriage without injury to the health of the girl and that of her progeny.

10. "The consequences" are twofold: pregnancy and child-birth; the responsibility entailed thereby on the resources of the family, not excepting the strain involved by the former on the health of the mother and her child. In cases of cohabitation outside marriage there is besides the terrible risk of social ostracism and illegitimacy. Indian girls, owing to conditions of climate, social life, etc., may be somewhat precocious; but it is only in a superficially emotional way. They have no intelligent knowledge of sex and there is no provision for it in the education of the young, presuming that education of girls becomes universal in the country. So "to give an intelligent consent to cohabitation with a due realisation of its consequences" a girl must be at least 17 or 18 years of age.

11. A large percentage of girls who became mothers before 15 either died of tuberculosis within a short period of their confinement or if they survived, it was only to drag on a sickly and weak existence which ended with the second confinement which quickly followed the first. Almost all such girls have lost their cheerfulness and vitality and seem to be incapable of either deriving any benefit from life or of themselves contributing to it. This is specially sad in cases where otherwise a good deal was possible in both directions.

As regards the progeny of mothers of 15, in my observation, I have come across both healthy and unhealthy sorts, in almost equal proportion. In the former case the parents, both of them young, were in exceptionally good physical condition.

12. Yes. From what I have observed, the mothers lose their vitality and become prey to tuberculosis or suffer from pelvic complaints which reduce them to cripples for life, or they become patients of chronic nervous prostration. Mentally their growth stops automatically with pregnancy. The premature psychological growth in the girl to accommodate the mind to the fact of motherhood has also a disastrous effect. The impressionable and joyous period of maidenhood is sacrificed to the necessities of the new life of wife and mother. The responsibilities of motherhood cannot be carried on efficiently by the young mother especially if she, as it usually happens now with the breaking up of the joint family, is deprived of the help of the experienced mother, mother-in-law or other elderly relations. Premature family responsibilities lower the standards of life all round. Not only is

progress retarded, it is in fact set on the downward path. The children born and brought up under such conditions suffer under a great handicap in the race of life.

13. Speaking for South Kanara and Malabar (in British India) on this coast, there has been remarkable development of public opinion on this subject since 1925. The Branches of the Women's Indian Association in all the important centres have sent their support to Sir Hari Singh Gour's Bills and then to Rai Saheb Har Bilas Sarda's Bill for the prevention of child marriage suggesting in the latter case the raising of the ages to 16 and 21 respectively for girls and boys. The constituent Conferences of the Women's Educational Conference last year passed similar resolutions. Last May a combined meeting of the Women's Indian Association, the Brahmo Samaj and other bodies held a public meeting to support the recommendations of the Select Committee on Rai Saheb Har Bilas Sarda's Bill and the resolution of Dr. Muthulakshmi Ammal in the Madras Legislative Council recommending 16 and 21 years for girls and boys respectively for marriage. The Kerala Social Conference at Payyanur, in the last week of May, unanimously recorded similar support to these proposals. It is general so far as the classes who can be expected to think on these matters and express their opinions on the same.

14. Not so commonly as some years ago. Where they are inclined to it it is largely out of a helpless submission to public opinion of the caste or place which is governed by the so-called religious injunction. If women have their own way they would prefer to wait sufficiently long before exposing their daughters to the risks of early maternity, and the evils of early consummation.

15. So far as offences occurring within marriage are concerned they rarely come to light or to the cognisance of law. They are hushed up to save the reputation of the parties and of the families to which they belong. Outside marriage, from what one gathers in the newspaper reports of trials, it would appear that difficulties are experienced in determining the age of the unfortunate girls. As explained in answers to (1) and (9) it is difficult to determine the exact age between 12 and 14. The margin is too narrow and gives scope for doubt whose benefit the offending party is only too eager to grasp.

To minimise the difficulties the Age of Consent should be raised sufficiently high to create, as far as possible, least doubt in the minds of the public as also of the officers of law in determining the exact age. Between 16 and 18 seems to offer a fairly satisfactory age for this purpose.

16. I have answered this question in the second part of my answer to (15).

17. At the present state of social conditions it seems expedient to separate the marital and extra-marital offences. The consequences of the latter offence are much more serious to the victim than those of the former. The unmarried girl will suffer in reputation blighting her whole life. It is not improbable she may even be disowned by her people, and thus driven to a permanent life of vice.

I do not feel competent to suggest the amount of punishment. But the punishment to be of any effect must include imprisonment as substantive, not an alternative, form of penalty. Otherwise people may be tempted to commit the offence hoping to buy out the consequences through payment of fines. The punishment for the extra-marital offence should be severe and deterrent, so perhaps double that of the other.

18. No. In both the cases trial must be *in camera*, and to obtain satisfactory results women must be associated with it in all the stages as a joint magistrate and as at least half the number of the jury or assessors at the Sessions.

19. Local Vigilance Associations, with men and women members, must be encouraged to be formed in every district and all important centres. In the present state of public spirit in the country this may not be difficult of

achievement. Such Vigilance Associations or Committees, if properly confided in and sought co-operation with by the police, will form a salutary link between the public and law authorities.

20. The best course would be to have both: raise the age of marriage and also the Age of Consent as an auxiliary measure. But in practice it may be difficult to detect and prosecute offences against the Age of Consent within marriage. And society will also naturally oppose strict measures in that direction as impinging upon the privacy and sanctity of family life. The practical and effective course for the present would, therefore, be to legislate for a minimum age of marriage which will be also sufficiently high as to render consummation of marriage soon after it innocuous. Between 15 and 16 years for girls and 20 and 21 years for boys will be suitable ages to fix for the purpose.

Though religious sentimentality will profess preference for legislation for a higher Age of Consent, it will ultimately acquiesce in, and inwardly welcome, the legislation fixing the age of marriage. It will come as a relief to parents who suffer varied hardships now-a-days in finding suitable husbands for their girls before they attain puberty. Social opinion and rules are likely to be guided and influenced in these matters by legislation of a reasonable and moderate nature as suggested above. Religion is happily coming to be understood in its proper setting, that it should help and not hinder the growth of the individual and the community.

21. In the present conditions in India, when education is very backward, strengthening of the penal law is the better and the only means of securing the object, in view. Social propaganda without it becomes merely pious platitudes, inane and ineffective. The law on the statute book and social propaganda to educate the people about it will achieve the best results in the briefest period.

• **Written Statement, dated the 19th September 1928, of Mrs. THOMAS, B.A., L.T., Headmistress, Municipal Girls' Secondary School, Chalapuram.**

1. There is distinctly a widespread desire for an advance and stringency of the law.

2. The future well-being of society in general and womankind in particular in this country demand that the Age of Consent should be raised sufficiently high.

3. Very few cases come to light, but cases of acquired venereal diseases have been brought to the women and children's hospital especially from among the depressed classes.

Advance is certainly noticeable; but as the Bill has become widely known and that only among the educated, through the constituent conferences preceding the All-India Women's Conference on educational reform held in Delhi we do not think that the amendment of 1925 is chiefly responsible for the advance.

The existing law and the reform proposals should be made more widely known and as means we would suggest that information be spread among teachers, in colleges and women's association, etc.

4. (1) We do not think that the amendment of 1925 raising the Age of Consent within marital state to 13 years has protected girls. There is no real check for consummation of marriage at that early age if the parties are so inclined.

(2) Stimulating public opinion will certainly go a great way to prevent early consummation.

(3) Raising the age of marriage as high as possible is to our mind the only method of protecting married girls against cohabitation with the husbands within the prescribed age-limit.

5. The usual age at which girls attain puberty in this country is about 13.

6. (1) It is not common, but there are cases.

(2) Fairly common.

Hardly any come to court.

7. We do not know of any religious injunctions and among Malabar Brahmins (Nambudris) no such religious injunction is acknowledged.

9. We do not consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. We consider it as nature just beginning to establish a great change in the body of the child gradually fitting it for maternity life only after a further growth and development of the body for a certain number of years. This physical development is not the same in every individual but it may be generalized that development is not complete, to stand the strain of maternity without injury to the mother or detriment to the child until after the age of 17.

10. At the age of 18, i.e., at the age of majority as understood for all civil and legal purposes.

11. Yes.

12. We certainly consider that early maternity is one of the causes for high infantile mortality as also for a general physical breakdown of womanhood leading to certain diseases like tuberculosis.

13. It is our opinion that public opinion has certainly swung over in favour of raising the Age of Consent more especially so amongst the educated womanhood of the country.

14. The educated classes do not favour early marriage.

15. We cannot say. But we should think that unless the Age of Consent is raised to 16, difficulties would be experienced in determining age of girls in connection with offences under sections 373, 376, Indian Penal Code.

16. Yes, certainly, the margin of error in determining the age would be materially reduced if the Age of Consent is raised to 16 but certainly not if it is 14.

17. We would not separate extra-marital and marital offences into different offences.

18. Procedure of trials for all offences within or without marital state should be conducted in camera.

19. We would recommend registration of marriages by notice to the Registrar giving ages and certificates of births of the parties contracting the marriage. We would also plead for a more reformed system of registration of births.

20. Legislation of fixing a higher Age of Consent is not sufficient, we consider the age of marriage should also be raised to 16.

21. Whilst penal law is necessary, in our opinion social reform and social propaganda would go a great way to strengthen the law to secure the object in view.

**Written Statement, dated the 15th September 1928, of M. R. Ry. V. MADHAYA, Raja Ayl., "Devi Vilas Palace," Palghat.**

1. There is some dissatisfaction with the state of the law as to the Age of Consent as contained in sections 375 and 376 of the Indian Penal Code. Enlightened women of India have often expressed that the evils of early marriage and cohabitation in society must be removed by some method or other.

2. In my opinion, the Age of Consent, as it is, must not be retained and some advance should be made on the present law. Indian leaders have started social reform movements and have recommended raising of the age of marriage of girls to avoid the evils of premature wifehood and early maternity.

**Raising the Age of Consent** will have some effect by removing these evils to some extent. Sexual intercourse must be postponed as far as possible to a maturer age.

3. Crimes of seduction or rape are not frequent in my part of the country. The amendment of 1925 has, I think, succeeded to some extent in preventing or reducing cases of rape. The progress in such matters could be more effective only by means of education and propaganda for social reform.

4. The amendment of 1925, raising the Age of Consent, within the marital limit has not been effective very much by way of postponing the consummation of marriage or by putting off marriage beyond 13, but it has certainly stimulated public opinion in that direction. Amongst the twice-born, marriage is considered to be a sacrament according to their religion and legal provisions may not be much effective in postponing consummation or putting off marriage beyond 13. The only effective remedy is to educate them by propaganda work and make them change their mentality. Amongst the bulk of the non-Brahmin communities in Malabar, post-puberty marriage takes place and marriage before puberty is not compulsory. The legal provisions may be useful in confirming them in the custom followed by them.

5. The usual age at which girls attain puberty in my part of the country is between 13 and 16. As far as I know there is no difference with regard to the age of puberty in the different castes, communities or classes of society.

6. Cohabitation is not common in my part of the country before puberty or before the girl attains 13 years, but it is not uncommon soon after puberty. I am not aware of any such case that has come to a court of law.

7. The practice of early consummation of marriage, wherever it exists is said to be based as religious injunction, but I am not personally aware of the specific authority for, and nature of, that injunction not of any and what penalty prescribed for its breach.

8. I am not able to state anything about the Gaona or Garbhadan ceremony.

9. The attainment of puberty does not always indicate physical maturity to justify consummation of marriage. In some cases, it may be so. Generally, in my opinion, physical development at the age of sixteen may be considered to be enough to justify such consummation without injury to her own health and that of her progeny.

10. At the age of sixteen.

11. In my experience, I have come across cases in which cohabitation after puberty but before full physical development of girls resulted in injury to her health as well as to the health of her progeny. Cohabitation at the age of 13 and 14 has made the child-mothers and their children weak and emaciated.

12. I do consider early consummation and early maturity responsible to a high percentage of maternal and infantile mortality. By beginning to bear children at an early age, the mother gets weakened and the children begotten are weaklings. Certainly, this fact affects the physical and intellectual progress of the people.

13. There has been no general development of public opinion in my part of the country in favour of extension of the Age of Consent since the amendment of 1925. Certain classes amongst whom marriage before puberty is not compulsory are in favour of extension.

14. Women are generally anxious to have early consummation of marriage for their children, but enlightened women understand the evil effect of early consummation and are prepared to postpone it provided the custom does not stand in the way. Amongst Brahmins the custom is so strong that it cannot be got rid of except by social reform undertaken by religious leaders.

15—16. I am not aware of any difficulties experienced in determining the age of girls in connection with the offences under sections 375 and 376 of the Indian Penal Code, and hence I am unable to suggest measures to remove the difficulties.



17—18. I am for separating marital and extra-marital offences. The maximum punishment for extra-marital offences which is provided in the Act may be retained. As far as marital offences, the question of punishment does not arise if the marriageable age is fixed. There need be no difference in the procedure of trials.

19. I am not able to suggest any new safeguards beyond those existing at present.

20. I believe legislation fixing minimum marriage age is much more likely to be effective than raising the Age of Consent within the marital state. Fixing the minimum age for marriage is more in consonance with public opinion.

21. I prefer to rely on the progress of social reform by means of education and propaganda work. It is difficult to secure reform in marriage customs amongst the masses by mere acts of legislature, however, stringent they may be. The outlook of the advanced classes should not be the basis of legislation. Legislation must be by stages and proper regard must be had to the mentality of the masses. It would be futile to strengthen the penal laws without educating the masses on the lines of social reform.

**Written Statement, dated the 15th September 1928, of Mr. N. KRISHNAN, Timber Merchant, Kallai, Calicut.**

1. There will be a state of dissatisfaction with the state of law, as to the Age of Consent, when sections 375 and 376, Indian Penal Code, treats the ages 13 and 14 are treated as illicit.

2. (1) The present law of the Age of Consent should be changed.

(2) Yes; making an advance on the present law.

3. Not much.

4. (1) Not of much effect.

(2) Slight.

(3) Automatically.

By getting every marriage registered at offices either personally or by written intimation.

5. At about 13 years. It does not concern the community or society.

6. (1) No.

(2) Yes.

(3) Age is not much cared for.

(4) Very rare.

7. Only amongst Brahmin class.

8. No. Nothing amongst non-Brahmins. I cannot say any amongst Brahmins.

9. I do not consider the attainment of puberty to be a sufficient indication of physical maturity, i.e., an age between 18 and 20 may be considered to be a period of physical development.

10. I think a girl of 18 years will be competent to give an intelligent consent.

11. It is only a general idea; but I cannot give the details of any.

12. Yes.

13. Yes. The country is in favour of an extension of Age of Consent.

14. Only ignorant people.

15. Hindus hold horoscopes. Hence no much difficulty.

16. Yes.

17. Yes. The offences must be differentiated.

18—19. Requires time to answer these.

21. Both.

## MADURA.

## Oral Evidence of Mrs. PANKAJA AMMAL.

(Vernacular.)

(Madura, 27th November, 1928.)

(Khan Bahadur Mian I. B. Kadri presided.)

Mr. Kadri: To what community do you belong?

A. I am a Vaishnavite Brahman.

Q. Are you connected with any social reform movement?

A. I am not particularly interested in any of these but I have been taking part.

Q. In what movement have you taken part?

A. In the Indian Women's Association and Ladies Club at Trivandrum and in Mahilla Mandiram.

Q. Have you had opportunity of talking about these matters of age of marriage and consummation with any of the ladies?

A. Yes, there were informal discussions.

Q. What is the age at which marriages take place among the Brahmans generally in this part of the country?

A. 12.

Q. At what age does consummation take place?

A. Between 13 and 14.

Q. Is it due to economic consideration that consummation has to be postponed for two or three years after puberty?

A. Yes.

Q. When do Brahman girls attain puberty?

A. Between 11 and 13.

Q. When do non-Brahman girls attain puberty?

A. Generally between 13 and 15.

Q. Does the age of puberty differ in the case of urban areas and rural areas?

A. There is not much difference.

Q. Is there high infantile and maternal mortality among the Brahmans in this part of the country?

A. There is very high infantile and maternal mortality among the Brahmans and that is due to early consummation of marriage.

Q. What is the general effect on their health?

A. They become wrecks.

Q. Have you seen any cases?

A. I have come across several instances and I am myself a victim to that.

Mrs. Nehru: Is the population of Brahmans very large in Madura?

A. There is a greater percentage of Brahmans in Madura as compared with the percentage of Brahmans in other parts.

Q. Have you had occasion to mix with non-Brahmans?

A. Slightly.

Q. Have you noticed any difference in the health of Brahman ladies and non-Brahman ladies?

A. Yes. Brahman ladies are weaker than non-Brahman ladies non-Brahman children are also healthier than the Brahmans. I attribute that to early marriage and early consummation of marriage.

Q. Do the ladies generally recognise that early marriage and early consummation lead to wreckage of health?

A. The percentage of Brahman ladies who realise this truth is very small; others are indifferent.

Q. Have you drawn their attention towards this fact?

A. I have emphasised this point to several ladies.

Q. Would you like legislation on this matter?

A. I think it is absolutely necessary.

Q. Do you think other ladies will support you in this view?

A. There will be a few who will support me but others will have to be convinced.

Q. You think they would not oppose it.

A. They will be indifferent about it.

Q. Will they act up to it if it is passed?

A. Yes.

Q. Which legislation do you support—the Age of Consent or the marriage legislation?

A. I want both but I apprehend there may be opposition to both; therefore let us have one as a trial. The age of marriage would be preferable. The Age of Consent and the age of marriage should be fixed at 16.

Q. Is the garbhadan ceremony prevalent among Brahmans?

A. There is invariably this rule that consummation of marriage must take place within 16 days of the girl's attaining puberty but as a matter of fact there are bridegrooms who insist on getting much dowry. Therefore consummation of marriage is put off indefinitely.

Q. As a rule how much period elapses between attainment of puberty and consummation?

A. It is generally six months.

Q. Do people favour early marriage and early consummation on religious grounds?

A. Yes. They say that the sastric injunction requires that consummation must take place within 16 days of puberty. Some section of the people think that it is a necessary ceremony but the majority do not think so.

Q. What is the condition of women's education here? Are the Brahman girls generally educated?

A. Female education is not advanced here; in Travancore it is highly advanced.

Q. Why is there this difference between Travancore and here is it due to want of facilities or the indifference of people?

A. It is all due to the machinations of the Brahman males. They think that these females when they are sufficiently educated will claim equality of status.

Mr. Bhargava: Do you think that the present age for extra-marital relations which is 14 may be raised so that unmarried girls and widows may be protected?

A. Whether it is her husband or whether it is a stranger a girl is fit for intercourse only after her 18th year.

Q. When you recommend the Age of Consent at 16 you do it as a compromise?

A. Yes.

Q. Among Brahmans also there are certain advanced families in which girls are married at 15 or 16. If a child is born to a mother at that age, will the mother suffer or will the child be healthier than the child born to a Brahman girl at the age of 14 or 15?

A. If a girl gives birth to a child before 18 she will suffer in health and her children will also be weaklings. In my opinion early consummation and early maternity are highly injurious.

*Mr. Mitra:* We have on evidence that Brahman and Vaisha girls attain puberty earlier than other castes in this Presidency. Is it a fact?

A. Yes.

Q. Is it due to the system of early marriage?

A. Yes.

Q. There is a consent law in marital cases but very few cases come to court although they occur. Could you suggest any means whereby some cases may come to light? Some witnesses have suggested that because the punishment is very severe nobody brings them to light and some have suggested that the system of trial is very bad?

A. I recommend that punishment should be fine only.

Q. Do you think Brahmans are afraid of orthodox people, or is it due to religious injunction or is it due to custom that they marry their girls early?

A. Orthodox people even have no belief in the sastras; they blindly follow the custom.

Q. Is there a dowry system?

A. Yes.

Q. If the marriage age is fixed at 14 will it militate against this dowry system?

A. Dowry system will be less. The law will be an excuse for them to marry their daughters late. People will really be glad to have a law of that kind; in their hearts they like it but they dare not openly preach against it.

### **Oral Evidence of Mr. SINNA KARIAR, S. A. F. IBRAHIM SAHIB.**

(Madura, 27th November 1928.)

(Khan Bahadur Mian L. B. Kadri presiding.)

*Mr. Kadri:* Do you belong to the legal profession?

A. I am a contractor. I am a municipal councillor, a member of the District Educational Council, a member of the Excise Licensing Board and also President of the non-Brahman Youth League, Madura.

Q. What is the membership of this league?

A. About 225.

Q. Are there any Mohamedan members?

A. Yes, about 42.

Q. Was there any informal discussion in the Youth League or in any other association about the marriage and Age of Consent law?

A. Yes.

Q. Are you familiar with Mohamedan sentiment on this question?

A. To a certain extent.

Q. What do the Mohamedans think about it?

A. They think that it is a dead letter. Non-Brahmans also think that it is a dead letter and it should be raised to 16.

Q. Are they in favour of having a law fixing the minimum age of marriage?

A. Yes, at 16.

Q. What should be the age in extra-marital cases?

A. There should be no difference between the husband and strangers; the age should be 16 in both cases.

Q. What is generally the age at which marriages take place in this part of the country?

A. 16, 17, or 18 and in some cases marriages take place earlier. I know a Mohamedan girl was married at 14 and she was sent to her husband's house, but she went away from her husband for a long time and then she was only taken back by force. Another girl was married when she was

13 but she died when she was 32. During this period she had 14 children. Of these only 2 are alive and the rest died. She was reduced to skeleton and finally died during delivery.

*Q.* You do not think there is anything in the Mohamedan law which will come in the way of fixing the age of marriage or Age of Consent?

*A.* Mohamedans can marry at any age. It is in the interests of the nation that such a law is passed; it is in no way against the Mohamedan religion.

*Mrs. Nehru:* What are the activities of your Youth League?

*A.* We do propaganda work for the uplift of non-Brahmans and for their education.

*Q.* What methods do you adopt for that?

*A.* It is a sort of youngman's club and we render facilities for sanitation.

*Q.* How long has this league been in existence?

*A.* For the last seven or eight years.

*Q.* Has your league been able to do anything besides this?

*A.* I do not know.

*Q.* Do the members of your league consider early marriage to be an evil?

*A.* Yes.

*Q.* Do people take it as a personal misfortune?

*A.* Yes, they think it is a personal as well as a national misfortune.

*Q.* How many members of your league are married men?

*A.* As far as I know 70 are married.

*Q.* What is the age of the oldest unmarried man?

*A.* 35 is the highest age.

*Q.* Did your league hold any meetings about the age of marriage and the Age of Consent?

*A.* There was an informal discussion about this matter.

*Mrs. Nehru:* Have you taken any sort of vow that you won't marry girls before a certain age?

*A.* No; we have not taken any such vows. We consulted together and came to the conclusion that one of our members should come and give evidence before this Committee and express our opinions on the question.

*Q.* Has there been any understanding between the members of the league that they will not marry their daughters before a certain age?

*A.* We have not given any definite promise like that, but we have come to the conclusion that the resolution should be put into force as far as possible.

*Q.* Have you found that this desire of yours to remain unmarried up to a certain age militates against the desires of your parents?

*A.* Our parents themselves are agreeable to the proposal.

*Mr. Mitra:* At what age do your girls attain puberty?

*A.* 13 to 15. It depends upon environments. In workshops and factories the girls attain puberty earlier. The working class people attain puberty later. The girls of high class families also attain puberty earlier. Puberty amongst average people comes at 13 to 15.

*Q.* Do you find any difference in the age of puberty between girls of Brahmin and non-Brahmin families?

*A.* No.

*Q.* What time do you think should elapse after the first menstruation of the girl before she can be fit for consummation?

*A.* There should be at least one year after puberty.

*Q.* Do you think that a marriage age should be fixed for boys also?

*A.* I think there should a difference of at least 3 years between the boy and the girl.

**Q.** As regards extra-marital cases, have you taken into consideration the fact that it is not only the physical development of the girl, but her intellectual development also which is an important factor, so that she might be able to give consent with due realisation of the consequences. Considering that for other purposes a girl is supposed to attain the age of discretion only at the age of 18, do you not think that 16 is not high enough?

**A.** I think 16 will be all right.

**Q.** Have you seen any girl mothers at 13, 14 or 15?

**A.** Yes.

**Q.** Have you found the children of such mothers of good physique?

**A.** No; the children of such mothers are very puny. Even to-day I know of a boy who is now 11 years old, who was born to a mother of 13 and a father of 21. The boy is very weak. I know of many such cases. Such boys have no marital courage or marital spirit. I think all this is due to early marriage.

**Q.** Is there any class amongst Brahmins amongst whom marriages take place very early?

**A.** Yes; amongst Saurashtra Brahmins. They call themselves Brahmins, but the other Brahmins do not admit their claim.

**Q.** At what age do the girls amongst them marry?

**A.** Always before puberty. They follow the Brahmins in all respects.

**Q.** Do you think that in the interests of the community Mohamedans will support a law for marriage?

**A.** Yes; it will be supported in Madura.

**Mr. Bhargava:** Unless there is an express order to that effect in the Quran, do you think that Mohamedans will not object to a law of this kind?

**A.** No; they will not object.

**Q.** When you say they will not object, may I know if you had occasion to talk with many of them?

**A.** I am considered to be one of the Mohamedan leaders here.

**Q.** What is this District Educational Council?

**A.** It is purely an educational organisation. It is a Government body. It consists of members nominated by District Boards, Taluk Boards and Municipalities. I am a member representing the Madura municipality.

**Q.** Are there many non-official members on that body?

**A.** Yes.

**Q.** Is its primary object education only?

**A.** Yes.

**Q.** Supposing the work of popularising this movement regarding the prohibition of early marriages is given to your Council, will it take it up?

**A.** I shall personally see that it is taken up and successfully carried out.

**Q.** You say you do not want to make any difference between a stranger and a husband in these cases. Your idea is that as long as a girl is not physically mature, she should not be subject to any harm. In the case of a husband it is the physical development of the girl alone that has to be taken into consideration. But in the case of a stranger the mental maturity of the girl should be also taken into consideration. Seeing that the age of majority of girls is at present fixed at 18, do you consider that the Age of Consent in extra-marital cases should also be raised to 18?

**A.** I think that a girl will be able to understand the consequences when she is 16.

**Q.** Do you not think that it is the business of the Legislature to make the age as high as possible consistent with general maturity?

A. I do think that 16 will be good enough.

Q. Under Section 366 A, if a person procures a girl for another person for immoral purposes he is guilty. Do you think that the offence is less heinous if the person procures the girl for himself? Do you not therefore think that even if the man procures the girl for his own purposes the girl should be given the same protection?

A. Of course the man is equally guilty.

Q. You want both the age of marriage and the Age of Consent in marital cases to be fixed at 16. Supposing it is not possible to have the marriage law, would you have the Age of Consent law alone?

A. I have said that both are equally necessary and the one should supplement the other.

### **Oral Evidence of Mr. R. S. NAIDU, Bar-at-Law, Chairman, Municipal Council, Madura.**

(Madura, 27th November 1928.)

Mr. Kadri: You are the Chairman of the Madura Municipality.

A. Yes.

Q. For how many years have you been Chairman?

A. This is my sixth year.

Q. To what community do you belong?

A. I belong to the non-Brahmin community.

Q. What is the usual age at which marriages take place amongst Brahmins and non-Brahmins in this part of the country?

A. Amongst Brahmins it is usually under 10. Amongst non-Brahmins it varies from 12 to 18.

Q. What is the age of consummation of girls amongst Brahmins and non-Brahmins?

A. Amongst Brahmins it usually takes place soon after puberty, and the average might be taken as 12 and 13. Amongst non-Brahmins it is 13 to 18.

Mrs. Nehru: Do you think that the amendment of the law of 1925 is generally known in this part of the country?

A. It is not so well known.

Q. Are you in favour of having a law of marriage on the lines of Mr. Sarda's Bill?

A. Yes.

Q. What age will you have for boys as well as for girls?

A. 16 for girls and 19 for boys.

Q. Would you like the Age of Consent in extra-marital and intra-marital relations to be raised?

A. I think it should be fixed at 16 in marital cases and at 18 in extra-marital cases. I might mention in this connection that amongst a class of people called Saurashtras here, there is cohabitation before puberty. Soon after marriage which is always a pre-puberty one, the boy and the girl are allowed to sleep in one room. I have cause to think that some offence is really committed in some cases.

Q. How do you come to know of such instances?

A. There will be some noise, and the neighbours will come to know of it, and they tell me. There are many cases of that kind here, but we cannot prove them.

Q. In these cases did you make enquiries about the age of the girls?

A. They are all cases of girls who had not attained puberty, and most of the girls are under 10.

Q. How many such instances can you think of at the present time?

A. I recollect about half a dozen cases. They are going on as a matter of ordinary practice.

Q. Besides your work in the Corporation, do you come in contact with members of this community?

A. Yes. We have to move with each other in many social functions.

Q. Have you talked to members of the community about this practice?

A. Yes; they say it is confined to members of the lower ranks of the society.

Q. What is the population of the Saurashtra community in Madura city?

A. The population of Madura is about 1,38,000, and the Saurashtras form a third of the total population.

Q. Are these women educated amongst the Saurashtra?

A. There is, but their girls stop with the fourth or fifth standard.

Q. What is the average age of consummation amongst non-Brahmin girls here?

A. It varies from 15 to 18.

Q. Does it vary between the different sects of non-Brahmins?

A. Yes; amongst the labouring classes the age is higher, because the girls attain puberty at a later age.

Q. What are the other communities amongst the non-Brahmins amongst whom marriages take place early?

A. Early marriages are exceptions amongst non-Brahmins.

Q. Does any period elapse between puberty and consummation?

A. Marriage generally takes place after puberty, and therefore there is not much interval.

Q. What is the practice amongst Saurashtra Brahmins?

A. They have got the Garbhadan ceremony which is performed after puberty.

Q. Do you think that the law is generally known amongst people?

A. Except lawyers nobody knows about the existence of the law.

Q. Have you heard of cases under this law coming to court?

A. No; not one case has come to court in my knowledge.

Q. Do you think that there are cases of consummation before 13?

A. I cannot give concrete instances; but my opinion is that cases do occur.

Q. Do you think that a large number of people will be against the law if the age is raised?

A. Yes; amongst Brahmins. There is no use leaving these questions for propaganda. There should be legislation on the subject, and there should be severe punishment for infringement of the law. I would not be satisfied with fine only.

Q. Which of the two would you prefer, marriage legislation or raising of the Age of Consent?

A. Both are important.

Mr. Mitra: Do you think that orthodox people base their objection to the marriage legislation on religious grounds?

A. I think that most of them do not know much about religion. They follow a long-standing custom and they say it is religion.

Q. According to the Sastras do they say that an age should not be fixed for boys also?

A. There is always a custom that the boys should be older than the girls. They are only particular about the age of the girls.



*Q.* At what age generally are girls married here?

*A.* The orthodox Brahmins generally marry them under 10. They say it is no good to marry girls after 10.

*Q.* Supposing girls are married after 10, what happens?

*A.* The parents will give the age of the girl as 10.

*Q.* Is there any social excommunication or tyranny if the girls are married after 10?

*A.* I do not think many people would come forward to marry a girl after 10. The father of the girl would therefore be put to a considerable expense in finding out a husband for the girl.

*Q.* Do you think that this tyranny will go if the age is fixed at a high figure?

*A.* I have heard very many Brahmins say that they would like to have a law for marriage. Now they are forced to get husbands for their girls before they are 10.

*Q.* Will they be particular about the age if once it is fixed by law?

*A.* Even the educated people are afraid of social ostracism; but if you ask their private opinions, they would be in favour of a law. Now each father is driven to the necessity of paying a large amount to get his girl married.

*Q.* Have you had occasion to see girl mothers at 13 or 14?

*A.* Yes; I have come across some cases.

*Q.* Are the children weak?

*A.* Yes; the mother is also affected in health.

*Q.* Now very few cases come to courts under the law. It has therefore been suggested that if the punishment is reduced to fine only, there will be greater chances of their coming to court. Do you agree?

*A.* On the other hand I think people will simply pay the fine.

*Q.* Do you suggest that these matrimonial cases can be tried by special courts called matrimonial courts, consisting of a magistrate and two non-officials who will either be assessors or co-judges with the magistrate?

*A.* Yes; I think ladies must be there. They would take a more lenient view of the case.

*Q.* Would you make the cases cognisable?

*A.* No.

*Q.* Do you suggest that a previous enquiry should be held by the magistrate before the party concerned is hauled up as the accused in the case?

*A.* Yes; there should be an enquiry by the Magistrate at which the parties must be allowed to state their case. Otherwise there will be ground for harassment.

*Q.* In some of the Indian States there is a marriage law, and exemptions have been provided as for instance in the case of a father, who is very old and wants to see his daughter settled in life; do you suggest any exemptions like that in case we have a marriage law?

*A.* I do not think that should be allowed. There will be no end to the requests for such exemptions.

*Q.* What would you suggest for punishment in case of infringement of the law of marriage?

*A.* It should be both fine and imprisonment. Only imprisonment will create terror in the minds of people, whereas fine would be regarded as one of the items in the marriage expenses.

*Q.* What period do you think should elapse after a girl attains puberty before she has full development of the body?

*A.* I think three years should elapse after puberty before the girl can be fit for consummation.

*Mr. Bhargava:* Do you think that amongst the advanced sections of Brahmins there is a general feeling in favour of an advance in the marriageable age of girls?

A. I have heard some Brahmins say that if the law is introduced, they would be glad.

Q. You say that there are girls' schools here. May I know what is the age of the Brahmin girls going to those schools?

A. It is generally 10 or 11. There are some up to 12.

Q. Do girls go to school after their marriage?

A. Yes; some girls go to school.

Q. As regards the system of registration of births, is it working satisfactorily in your municipality?

A. I think it is working satisfactorily.

Q. Are there prosecutions for non-registration?

A. Yes.

Q. What is the system of registration of births adopted in the villages?

A. In the villages the village headman registers births. It is the duty of the village headman to make enquiries whether births have been registered, and if he comes to know that it has not been done in any case, he recommends prosecution.

Q. Is there a statutory obligation laid on the villagers to report births?

A. It is what I hear. It is so in the case of Municipalities.

Q. Can you suggest any special methods for improving the system?

A. There must be effective supervision as regards births.

Q. Would you like statutory obligation to be laid on the villagers, if it is not there already?

A. Yes.

Q. Are you in favour of similar registers being kept for marriages?

A. Yes; and they can be compared with registers of births.

Q. On whom would you place the responsibility of keeping these registers?

A. The local bodies.

Q. As regards marital cases, the right to make a complaint inheres in every citizen. Would you keep it as it is or would you restrict the power of the citizen?

A. I would keep it as it is.

Q. You said that there must be a preliminary enquiry before prosecution is launched against the accused. Would you have a system of sanctions introduced in such cases?

A. I would have the same system of enquiry which prevails in England in the case of offences like murder. There is a Coroner who makes a preliminary enquiry previous to sanction being given for prosecution. Otherwise there will be unnecessary harassment.

Q. Are you in favour of the appointment of an officer of Government who would go into these cases and find out if they are fit cases to be sent to court, and on his recommendation the Government should launch upon the prosecution?

A. Yes.

Q. You said something about there being pre-puberty consummation amongst Saurashtra Brahmins here. Is it the thing as consummation on the fourth day of marriage?

A. No; after the marriage is over, the son-in-law goes to the house of the girl and is fed there for about a month. Then the girl is sent to the boy's house. Here in Madura it is the practice to marry girls of the community in Madura itself and not outside.

**Q.** Have you found that as compared with other Brahmins and Saurashtra Brahmins are weaker?

**A.** As a class they are not strong. Other Brahmins are of much better physique.

**Q.** What is the usual difference between the boys and the girls amongst the Saurashtra Brahmins?

**A.** Most of the boys amongst them are married before 18.

**Q.** Is there a large number of widowers marrying second wives?

**A.** I am not quite sure about the figure, but it may be about 10 per cent.

**Q.** Are these people also given dowries by the girl's parents?

**A.** On the other hand they would have to give dowries because people are reluctant to marry their girls to a widower.

**Q.** Is there widow marriage amongst this community?

**A.** No.

**Q.** You say that Brahmins would not express their disapproval if a law is passed. Do you think that it is the duty of Government to enact a law on this matter?

**A.** Yes; I think they should do so in the interests of the country and particularly in the interests of the Brahmins.

**Q.** You say there should be imprisonment in cases of breaches of the marriage law. What would be the amount of imprisonment you would recommend?

**A.** It should be 6 months to 2 years.

**Q.** On whom would you pass the sentence?

**A.** The parents and the priest.

**Q.** Are you in favour of punishing the boy if he is less than 18?

**A.** No; in that case the parents or those in charge of the boy might be punished.

**Q.** As regards infringement of the law in marital cases, what punishment would you give the boy?

**A.** I think the boy might be given three months.

**Q.** Are you for penalising parents also, because they are also responsible for bringing about the union?

**A.** They will come in as abettors and they should be given higher punishment.

**Q.** Will you vary the punishment according to the age of the girl?

**A.** Yes.

**Q.** The present punishment in the case of girls below 12 is either transportation for life or ten years. Will you keep it as it is?

**A.** Yes.

**Q.** And above 12 you will give graduated punishment according to the age of the girl?

**A.** Yes.

**Q.** You said that the offence should not be cognizable.

**A.** Yes. I am very particular about that.

**Q.** So far as the offence relating to a girl of less than 12 is concerned it is as present cognizable.

**A.** We should not allow that. If this law is passed the whole thing may be taken out of the hands of the police.

**Q.** Then I understand you would make a proposal something like this. As soon as an offence is reported some one should go on the spot and make an enquiry otherwise some valuable evidence may be lost.

**A.** Yes, some responsible officer may go and enquire.

Q. Is there compulsory education in the town?

A. We have introduced in two wards.

Q. Brahmins also live in those wards.

A. They do. We are concerned with elementary education till 11.

Q. In future, according to you, no girl below 11 will remain uneducated.

A. We have not introduced for the girls yet. After introducing it in all wards we propose extending it to girls also.

Q. You will find serious difficulty in enforcing this provision regarding education unless this law is passed. You say girls below the age of 10 even are married.

A. But girls are attending schools even after their marriage.

Q. Then would it be obligatory on them to attend schools?

A. It will be only upto 11.

Mr. *Shah Nawaz*: Do Saurashtra girls find any difficulty in getting husbands because they are married only inside the town of Madura?

A. I don't think there is any difficulty. The boys also are not married outside because the marriage is celebrated when they are young.

Q. Is polygamy practised among Saurashtra boys?

A. No. It will be very rare.

**Written Statement, dated the 26th November 1928, of Dr. K. P. THOMAS, L.M. & S., Health Officer, Madura Municipality, Madura.**

1. There is dissatisfaction as regards the Age of Consent which is too low.

2. (2) The high infantile and maternal mortality among those who are having pre-puberty marriage and the resultant lowering the vitality together with a low expectation of life are sufficient justification to make an advance on the present law.

3. I personally believe that the amendment of law made in 1925 has not materially improved the existing state.

4. No. The only way to protect married girls against cohabitation with husbands within a prescribed age limit is to raise the age of marriage as otherwise it is not likely that the violation of rule against the husband is brought out by our Indian girls.

5. I have already furnished a chart showing the age of puberty in different communities. From the statistics taken from this Municipality, I find that the ages differ according to various castes.

6. (1) From my enquiry, I understand that there are rare instances of cohabitation before puberty in a community which practises pre-puberty marriages. But I may say that it may not be possible for me to prove these cases since people won't come forward to admit this as it is a crime.

(2) In majority of the cases of pre-puberty marriage cohabitation does take place soon after puberty.

(3) Before the girl completes 13 years cohabitation may take place in some cases. None of these cases go to the Court.

7. On enquiry I learn that there is no religious injunction for early consummation of marriage before or after puberty.

8. "Garbhadan" is performed usually. It coincides with the consummation of marriage. Generally it is performed soon after the attainment of puberty.

9. I do not consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. I consider that at least 3 years must elapse after the attainment of puberty. So on an average I would put it, the age 16, as justifiable for the consummation without injury to the health of the mother or her progeny.

10. I think at the age of 16 in India, a girl will be able to give an intelligent consent for cohabitation with due realisation of her consequences.

11. In my medical practise, I have come across with similar cases but I am not able to give details now.

12. Yes. I consider that the early consummation and early maternity are responsible to a large extent for the high maternal and infantile mortality in our country and the physical deterioration of our people.

13. I think there is a development of public opinion among the cultured people of progressive views in favour of the Age of Consent in marital and extra-marital cases since the law in 1925.

14. Majority of the uneducated women favour early consummation of marriage of their children.

15. In a Municipality like this where registration of births and deaths is carried on correctly, there won't be very much difficulty in determining the age.

17. Marital and extra-marital offences should be separated into two different offences. In marital offence the punishment may be in the shape of fines and in the other it may be of imprisonment.

18. In marital offence the trial may be done in *camera*.

20. I consider that the penal legislation fixing the minimum age of marriage will only be effective if violation of the rules is to be prevented as the crime relating to the violation of the Age of Consent will never be brought to light in majority of the cases.

21. I would prefer to rely on the strengthening of the penal law to secure the object in view under the present state of our country. If we are to wait on the progress of social reform by means of education and social propaganda we have to wait indefinitely. Social education and social propaganda may also be done along with the strengthening of the penal law.

### **Oral Evidence of Dr. K. P. THOMAS, L.M. & S., Health Officer, Madura Municipality.**

(Madura, 28th November 1928.)

(Rai Bahadur Pt. Kanhaiya Lal presided.)

Mr. Kanhaiya Lal: Are you the Health Officer of the Madura Municipality?

A. Yes.

Q. How long have you been the Health Officer?

A. For the last one year.

Q. Where were you before that?

A. I was the District Health Officer at Ramnad for five years.

Q. What is the percentage of infant mortality here in Madura?

A. It varies between 200 to 220 per thousand births.

Q. Has it been progressively increasing or decreasing?

A. There has not been much increase or decrease.

Q. In what community is it excessive?

A. It is excessive among the Sourashtras.

Q. What is the percentage there?

A. It is 260 per thousand.

Q. Among the Christians it is 120. Does it include both Indians and Europeans?

A. Yes.

**Q.** What is the infantile mortality among the Mohamiedans?

**A.** It is 170.

**Q.** Among the Hindus?

**A.** It is 225. This includes Brahmins and Surashtras, and among the Surashtras it is 260.

**Q.** Can you tell us the reasons for this high infantile mortality among the Surashtras?

**A.** I consider it is due to pre-puberty marriage. This is the community which practices pre-puberty marriage.

**Q.** Partially or wholly?

**A.** The whole community practices pre-puberty marriage.

**Q.** Is that the only cause?

**A.** This is one of the main causes.

**Q.** At what age do they marry?

**A.** From 8 to 10 years they marry.

**Q.** Is there Garbhadan ceremony among them?

**A.** There is.

**Q.** When does consummation take place?

**A.** Soon after puberty mostly. But there are rare instances in which the husband and the wife live together even before puberty. There is a practice among this community to allow the husband and wife to live together for 6 months in the husband's house and for 6 months in the house of the wife, before puberty. This information I gathered by talking with gentlemen of this community.

**Q.** Is the Garbhadan ceremony publicly performed?

**A.** Yes, it is mostly.

**Q.** How long after puberty?

**A.** Soon after puberty.

**Q.** What about the maternal mortality?

**A.** It is also found to be higher in the Surashtra community as compared with post-puberty marriage people.

**Q.** What is the percentage?

**A.** It comes to 125 per thousand of child-births. Even among the Brahmins the figure is the same. Among other Hindus it is 97 and among Mohamedans it is 7 and among Christians it is 59.

**Q.** What is the usual age of marriage among Mohamedans?

**A.** It is after 14.

**Q.** Brahmins also practice pre-puberty marriage?

**A.** Yes.

**Q.** What is the usual age of marriage?

**A.** I think it is between 10 and 11.

**Q.** And in the case of other Hindus?

**A.** It is mostly after puberty.

**Q.** What is the relative death rate among males and females? Is the mortality excessive among females between 10 and 15, 15 and 20 and 20 and 30?

**A.** Between 10 and 15 the excess is very small, it is very large between 15 and 20 and it is still higher between 20 and 30. After that the mortality among males is higher.

**Q.** What do you attribute this excess between 15 and 20 and 20 and 30 to?

**A.** I would consider it is due to early motherhood.

**Q.** Are there any mothers between 10 and 15?

**A.** There are instances in which girls became mothers at the age of 13. The other day a girl aged 13 died of eclampsia in the Municipal Maternity Home.

**Q.** Are there many cases of mothers at 13?

**A.** Not very many.

**Q.** How many do you think?

**A.** This is the only case that has come to my notice. I am not having general practice outside.

**Q.** Can you give us the maternal death rate among the various classes?

**A.** The triennial death rate among the Brahmins is 12.5, among the Saurashtras also it is the same, among other Hindus it is 9.7, among Christians it is 5.9 and among Mohamedans it is 7.0. Excessive mortality among Saurashtras is due to early maternity.

**Q.** Can you give us the ages at which the girls attain puberty among different classes?

**A.** I have prepared a chart showing the comparative age of puberty among different communities in Madura and I find that the Brahmin girls attain puberty at the earliest age, generally at 12 and among the Saurashtras it is slightly later.

**Q.** How do you get these figures?

**A.** I distributed small chits through the head-mistresses in the various schools, requiring the girls to fill in their name, present age and the age at which they attained puberty; and if they did not remember the age they could give the class in which they were reading when they attained puberty.

**Q.** To how many girls was this distributed?

**A.** About 300. The reports were received from the head-mistresses and the results have been tabulated in this chart which I produce.

**Q.** What are the institutions in which you distributed these forms?

**A.** (1) Capron Hall Training School where mostly Christians study, (2) Municipal Training Girls' School where mostly Hindu girls including Saurashtras study; (3) Government Middle school for girls where also mostly Hindu girls including Saurashtra girls study; and (4) the St. Joseph's Industrial School where mostly Christian girls study. From the instances examined it appears that among the Hindus including the Saurashtras two girls attained puberty at 11, 3 at 12, 10 at 13, 7 at 14, 8 at 15 and one at 16.

**Q.** What is the system of registration of births in force here?

**A.** Registration of births and deaths is compulsory.

**Q.** Do you think that the system is working satisfactorily?

**A.** Almost satisfactorily. In rare cases we are forced to prosecute people for having not registered the birth. We have special registrars of births and deaths. They register births from 7 to 11 and then they are expected to go round and see whether there are any unreported births.

**Q.** Are these registers kept permanently?

**A.** They are.

**Q.** Are the names entered in the register?

**A.** They are not.

**Q.** They are entered at the time of vaccination?

**A.** The registrar of births and deaths sends a monthly return to the vaccinator who enters all births in the register called the "unprotected register" and vaccinates every child. He has also to go round for the purpose of this register and see what children are yet to be vaccinated.

**Q.** But if the name is not given, how will you solve the question of identity?

**A.** Among the Christians the name is sometimes given, but generally it is not given immediately on the birth of the child, among the Hindus and other castes.

**Q.** So how do you solve the question of identity?

A. I would suggest that a supplementary report should be asked for when the name has been given. It should be made obligatory on the parents to come and report as in the case of registration of births and then again sign the birth register.

Q. Will you tell us how is the system working in rural areas?

A. The village headman is supposed to register all births, like the Patel in other places. Registration is not compulsory in all the villages in the Madras Presidency. It is compulsory in some selected villages. In these villages where there is compulsory registration the parents can be prosecuted if the birth is not reported, but in other places it is not possible.

Q. You mean registration is defective in the villages. What measures would you suggest to improve the system?

A. It should be made compulsory.

Q. If it is intended to introduce a system of registration of marriages like the registration of births, would it work?

A. I think a similar system would work.

Mr. Kadri: In paragraph 6 you refer to rare instances of cohabitation before puberty in a community which practices pre-puberty marriages, by this community, do you mean Saurashtra community.

A. Yes. But it is very rare. When asked why did they have this inhuman practice the reply was that that was to prevent the boys from running astray.

Q. Had you a talk about this?

A. I had. They even give some sort of inducement to the girl to go into the room along with the husband.

Mr. Madaliyar: That is merely a formal affair. You don't suggest that consummation takes place at that time. It is merely a sort of playful ceremony and no actual connection takes place between the husband and the wife. Is it not?

A. In very rare instances it takes place.

Q. In such cases where inducement is given to the girl to go to the room of the husband do you think serious consummation takes place? Is it not with a view to get the husband known better? Does ever consummation take place?

A. Actual intercourse takes place.

Q. Who told you that?

A. Some gentlemen of the community.

Mr. Kadri: You say in certain rural areas registration of births is compulsory. What are these areas?

A. Where the population is more than 4,000 we write to the collector to declare the registration of births compulsory, and he makes such a declaration.

Q. Under what Act does he make such a declaration?

A. Under the Manual of Madras Birth and Death Registration he can make that declaration.

Mr. Shah Nawaz: I want to know whether from the medical point of view a girl is fit to become a mother when she attains puberty.

A. I don't think that she is fit.

Q. Have you got any authority on the subject or is it your personal opinion? All these Brahmins say that a girl is fit for consummation on the attainment of puberty. Are they correct?

A. From my personal experience I can say that. I come in contact with several mothers in the course of my vaccination inspection. I can understand their health by appearance and I find that it is much below par.

Q. From the medical point of view you think that they are not fit for actual intercourse soon after they attain puberty.

A. No.



*Q.* What period should elapse between puberty and the age when they come fit for consummation?

*A.* I think at least 3 years must elapse after puberty.

*Mr. Bhargava:* You say a girl is fit for maternity at the age of 16. Supposing maternity does not come and there is consummation soon after puberty, will the health of the girl be necessarily in danger?

*A.* It may be slightly affected by having sexual intercourse, but there is no danger to the health if there is no maternity.

*Q.* What is generally the difference between the age of the husband and the wife, if the marriage is not with a widower?

*A.* 5 or 6 years.

*Q.* In the chart relating to maternal death rate due to child-birth you will find that the rate is higher among the Hindus than among the Mohamedans and Christians, whereas according to you they also marry after puberty. What is the cause of this?

*A.* It is due to economic causes.

*Q.* Are the Hindus poorer?

*A.* Non-Brahmin Hindus are not sufficiently rich as compared with Mohamedans and Christians. Among the Christians social customs also count. They are mostly educated.

*Q.* Among the Sourashtras when does consummation take place?

*A.* Soon after puberty.

*Q.* At 13 or 14?

*A.* Yes.

*Q.* Do you know when does maternity come among the Sourashtras?

*A.* Soon after consummation takes place.

*Q.* It is not necessary in every case maternity should come on immediately after consummation?

*A.* I would put the usual age at 14.

*Q.* Are these Sourashtra men and ladies weaker in health than the rest?

*A.* Comparatively weaker. It applies to females, males are not weaker to any great extent.

*Mr. Mitra:* Are there any child marriages among any section of Christians?

*A.* Not, as far as I know.

*Q.* What do you consider to be the ideal age for marriage?

*A.* 16.

*Q.* What age would you fix for extra-marital cases?

*A.* I don't think that the State should license extra-marital cases. I consider it will only lead to an increase in the number of criminal abortions or the number of illegitimate children. I am not in favour of fixing any age for extra-marital offences.

*Q.* You think there should be no age fixed for extra-marital cases.

*A.* The State should not encourage and license extra-marital offences.

*Q.* Suppose the age is fixed at 18.

*A.* And after 18 you allow extra-marital connection?

*Chairman:* It is not allowing extra-marital cases. The State cannot interfere with individual liberty. We can only protect persons who are of an immature mind and who cannot judge for themselves and can disregard their consent.

*A.* If it is absolutely necessary to fix an age I would put it at 18.

*Q.* In paragraph 7 you say there is no religious injunction. Are you speaking about Hindus and Mohamedans?

A. I had a talk with my friends belonging to Brahmin as well as non-Brahmin communities and they say it is merely tradition that has been followed for ages.

*Mr. Mudaliyar:* Are you Protestant or Roman Catholic?

A. Roman Catholic. I am a Syrian Christian.

Q. Is there any age below which Roman Catholics cannot marry?

A. No age is fixed. In my community we used to have marriages at 8, 10 or 12 about 25 years ago. That practice has been completely given up. Most of the girls and boys go for higher education.

Q. You mean there is no injunction in that behalf. I understand in England a Roman Catholic cannot marry below 14. Is the church of the Syrians separate?

A. We have a separate Syrian Christian church.

Q. About the extra-marital cases I want you to understand what the offence really is, if there is consummation against the will of the girl or it has been obtained by putting her in fear of death or injury it is an offence whatever the age may be. Surely the State does not give any license to any man to have connection with a woman against her will. The question of fixing the age arises only where the woman consents. At present the age has been fixed at 14. Do you believe that even where the woman consents and whatever the age of woman may be the man should be punished?

A. I personally believe so. Because otherwise it may lead to criminal abortion as the girl will not like the production of the child or if it is born it will be an illegitimate child.

Q. Would you then suggest that the woman should also be punished if it is with her consent?

A. She should be punished, if it is with her consent.

Q. How long have you been in Madura?

A. Just one year.

Q. So you have only heard about the customs of Saurashtra?

A. I was in Ramnad district where also there are Saurashtras.

Q. How did you come to know of the custom about consummation that you referred to?

A. I have had a talk with the gentlemen of the community.

Q. And they said to this day this practice is allowed?

A. There are rare instances.

Q. In those rare instances what was the age of the husband? Was he a boy or an elderly man?

A. I can't say that.

Q. You mean what you say about consummation is only hearsay.

A. That is what I have been told by the members of the community.

*Mrs. Nehru:* What is the percentage of Christian population in Madura?

A. Their population is 7,332.

Q. Has early marriage absolutely stopped amongst them?

A. I have not come across any case of early marriage amongst the Christians.

Q. Under the Municipality where you are working have you got any child welfare centres?

A. There is a Baby welcome Home and there is one maternity home.

Q. Do you find many young mothers coming to those homes?

A. I am not directly in charge of the Baby Home. I am only concerned with it so far as vaccination verification is concerned.

Q. Have you come across any young mothers in that capacity?

A. I have come across mothers between 13 and 16.

**Q.** Many such cases or only a few?

**A.** Not very many, a few.

**Q.** What about the children of these young mothers?

**A.** They are very weak. I am forced to give certificates in some cases to postpone vaccination on account of the ill-health of the child.

**Q.** Have you noticed that the necessity of issuing a certificate arises usually in cases of children of young mothers?

**A.** Some of them are of young mothers. I can see both the mother and the child as the mother carries the child.

**Q.** Is the name of the child given in the birth register? You said registration of births was carried on fairly correctly here.

**A.** There is a column, but it is left blank, because the Hindu children will not be named soon after birth.

**Q.** Is the name filled in the case of Mohamedans?

**A.** They generally give the name.

**Q.** Among the Mohamedans also it is not given immediately on birth?

**A.** We allow 7 days for reporting the birth, if within those days the name is given, the name is entered.

**Written Statement, dated the 21st August 1928, of M. R. Ry. N.  
NATESA AYYAR AYL., B.A., B.L., Advocate, Madura.**

1. A feeling of helpless resignation to the inevitable is all that remains now, in place of the intense dissatisfaction which previously held sway among the knowing members of the orthodox section regarding the state of the law as to the Age of Consent.

2. No circumstances exist which can justify the raising of the Age of Consent. The present law is winked at and tolerated because it does not vary much from every day life. The moment you raise the age you awaken a slumbering volcano.

3. Seduction and rape are more common now than before. Take any daily at random and you find at once at least half a dozen cases arrest your eyes. Remember that a very small percentage alone thus leaks out and that even this number is appallingly large. This is the result in spite of the laws, laws doubly and triply amended. No man-made law has yet succeeded in reducing these crimes. Why? No man-made law can succeed so long as it flouts and reverses God's laws and the laws of nature. It is the law of God and it is the law of nature that man must function as man and woman must function as woman. Adam and Rama must delve and Eve and Seetha must spin. Delving and spinning illustrate only outdoor and indoor work. Respect and give effect to these laws and mould your law on these laws and see what awaits you. A veritable heaven on earth with peace, plenty and prosperity everywhere. No rape, no seduction, no judicial separation, no divorce, anywhere.

4. Very few persons other than lawyers, Judges, Magistrates and Police Officers know anything about the amended law of 1925 or the previous law. Marriages are being consummated and husbands and wives are cohabiting within the prohibited period, without the parties knowing that they are breaking the law. If here and there, there is a postponement of consummations or the putting off of marriages beyond 13, it is due not to the law of 1925 or the previous law but to purely economic considerations. There is no public opinion in this direction and there is consequently no stimulation of it either. There is really no need to make the law more effective. Economic considerations and natural causes will themselves bring about the desired results.

5. Girls attain puberty generally between the 12th and the 14th years here. A town-bred girl attains puberty earlier than a simple country girl. A girl accustomed to rich food and stimulants menstruates earlier than her less fortunate sisters. A girl reading the modern-day novels or attending cinemas and theatrical performances or studying in public schools becomes a woman sooner than one who has not had such mischievous privileges. A girl of the working class and a flesh eating girl reach a high age before attaining puberty. Other conditions being the same no difference is created by reason merely of the difference in caste.

6. It is said that there exist very few and almost negligible instances of cohabitation before puberty in what is known as the caste of dancing girls. This condition is abnormal. Generally an interval of one year or one year and a half is allowed to run between puberty and consummation. The practice of consummating the marriage between the first appearance of the menses and the second which seems to have prevailed in the past among the extremely orthodox and conservative Brahmins of the far off interior in the Districts of Tinnevely and Madurai has virtually died out. Cases of consummation before the completion of the 13th year are very rare. None of these cases has come before a Court of law to my knowledge.

7. No religious text enjoins consummation before puberty. Consummation soon after puberty has been recommended on pain of visiting the failure with a set of evil consequences. It appears to be merely directory, not mandatory in its nature, judged by the Meemamsa rules of interpretation.

8. Garbhadanam is one of the 48 binding Samakaras and is the religious part of the consummation of marriage.

9. Under normal conditions, appearance of menses is the most emphatic proclamation of a girl's fitness for consummation of marriage from all points of view.

10. The age may be fixed between 13 and 14 for a country girl and 12 and 13 for a town bred girl.

11. I know of no cases.

12. Under normal conditions early consummation and early maternity minimise maternal and infantile mortality. Healthy and highly intellectual children come out more often from early consummation and early maternity than from late consummation and late maternity. Physical and intellectual progress are not generally affected by early consummation or early maternity under normal conditions.

13. What little development of opinion there is, is confined to a small section of social reform propagandists recognizing nothing good in oriental lines of thought and culture.

14. Women not intoxicated with anti-Hindu sentiments--(they form the cream and bulk of Hindu womanhood) favour early consummations of marriage for their girls under normal conditions.

15 and 16. I have no experience in Criminal cases. I presume that the difficulties are bound to be enormous, especially in view of what medical men have declared in civil cases that the margin of error will be as high as 6 years either way.

17. Marital offences ought not to be placed in the same class as extra-marital offences. The maximum punishment for the former ought not to exceed what has already been prescribed. I am for relaxing the law by making a mere fine a sufficiently adequate punishment. In respect of extra-marital offences the punishment already provided is sufficiently elastic.

18. An offence within the marital state should whenever possible be tried in camera and be made compoundable at the discretion of the injured girl or the parents of the girl or of the trial Judge.

19. The offending husband stands in need of protection against outside molestation. No action should be initiated or continued against the wishes of the girl or her parents or guardians.

20 and 21. I am not in favour of either kind of legislation. Nor am I prepared to permit the so called social reform or false education to disturb marital relations.

**Oral Evidence of M. R. Ry. NATESA AYYAR AVL., B.A., B.L.,  
Advocate, Madura.**

(Madura, 28th November 1928.)

*Chairman:* Are you an Advocate of the High Court?

*A.* Yes.

*Q.* How long have you been practising in this Court?

*A.* I have been practising in this Court for the last 25 years.

*Q.* Have you been connected with any social reform movement or other public movement in the country?

*A.* I am not connected with any social reform movement other than Dharma Shashtra Movements.

*Q.* What kind of movement did you take part in?

*A.* There is the Dharma Shashtra Society which was started by His Holiness Sri Shankaracharya. I have been connected with it for the past 25 years.

*Q.* What is the object of that society?

*A.* The object of the Society is to promote knowledge of Hindu Shastras and its practices and observances.

*Q.* What are the methods adopted by this Society for propagating these ideas?

*A.* Periodical lectures, classes in the evenings on Sundays and so on; I have also been holding religious discourses almost two months in every year to which I invite all the learned Pandits of southern India.

*Q.* Did you attend the conferences held in Conjeevaram and Trivady?

*A.* I was almost a beginner in life then.

*Q.* Can you tell us whether there are any communities in this part of the country where early marriage is practised?

*A.* It is practically done amongst almost all the Dwijas

*Q.* What is the usual age for marriage?

*A.* It is between 11 and 13.

*Q.* Is it particularly amongst the Brahmins?

*A.* It is amongst the Brahmins and other persons who want to imitate the Brahmins.

*Q.* What is the usual practice amongst the non-Brahmins as regards the age of marriage?

*A.* By non-Brahmins you draw in several sections. For instance the Vaishyas closely follow the Brahmins but the Sudras are not tied down by any rules of this kind. So they practise late marriages and late consummation.

*Q.* What about the Sourashttras?

*A.* I don't know to what classification they belong. But they are partly following the Brahmins and partly the Sudras.

*Q.* As regards the age of marriage, do they follow the Brahmins or the non-Brahmins?

*A.* So far as I know they follow the non-Brahmins.

*Q.* So early marriage, by which is meant marriage between 11 and 13, is practised amongst the Brahmins, Vaishyas and amongst such other castes as follow the Brahmins?

*A.* Yes.

*Q.* What is the usual age of puberty amongst the Brahmins?

*A.* Caste is not the criterion. It is the mode of living that determines this.

*Q.* Can you tell me what is the average age of puberty in towns amongst the Brahmins?

A. In towns you may take it at 10, 11 and 12. In countryside it is between 11 and 13 or even 14.

Q. What is the practice about the consummation of marriage amongst the Brahmins?

A. You mean the religious part and the actual part, by consummation of marriage.

Q. Yes. By religious part I mean the Garbhadan.

A. It is a religious portion of the consummation of marriage. It is not distinct from the consummation of marriage. It is the integral part of consummation.

Q. How long after puberty, it is observed?

A. It is observed generally a year or a year and a half after puberty. That is the practice. There was originally the practice of consummating the marriage between the first and second menses of the women but that practice has now died out.

Q. Is the Garbhadan ceremony common also amongst the Vaishyas?

A. Yes.

Q. Does Garbhadan ceremony take place amongst the Sudras?

A. I don't know.

Q. What about the non-Brahmins?

A. There is no ceremony at all.

Mr. Mudaliar: Is there no ceremony amongst the non-Brahmins neither in practice nor in theory?

A. Neither the Puranas nor the Shastras lay down any Vedic functions at all for the Sudras.

Chairman: Is consummation within the 16 days of the first menses recommended or mandatory?

A. It is not mandatory.

Q. So that consummation can under the Hindu Shastras be postponed till it is expedient.

A. No question of expediency comes here because when the religion points out one desirable way, one should closely follow it as far as possible.

Q. Supposing it is not convenient to the parties or to the parents or guardians of the parties it is not absolutely necessary that it should closely follow puberty.

A. The convenience of the parties or the parents or guardians is not the ruling element.

Q. What is the ruling element then?

A. The ruling element is that we should fulfil the purposes which a marriage is intended to serve.

Q. Along what lines is this direction to be followed?

A. If you consider the real object of a marriage, then you will see that it is not merely to produce an off-spring. The object of marriage is to regulate all the sexual impulses and to direct the impulses in the proper measures through the proper channels. The ultimate object is the subjugation of the flesh. You ought not to make the flesh conquer the mind and the spirit. It is your mind and the spirit that ought to conquer the flesh. These are the means that have been devised by our sages, who were prudent, for these purposes and they had concentrated or accumulated wisdom of age and experience; and such results will lead to the subjection of the flesh and ultimately the destruction altogether of the sexual impulses.

Q. What age would you recommend for the consummation of marriage?

A. Soon after puberty consummation must take place. The fact of puberty is the loudest proclamation of the fitness of a girl for consummation.

Q. You have said that consummation takes place a year or a year and a half after puberty.

A. As a practice it has been allowed; but not as a recommendatory rule. Also the evils of late consummation are numerous.

Q. What do you mean by late consummation?

A. Late consummation means consummation taking place a year or more after puberty.

Q. Do you mean to suggest that those who consummate the marriage so, run some risk?

A. They are sinners.

Q. Do mundane evils come into existence?

A. You mean the deterioration of the race.

Q. Yes. There is also much child mortality and maternal mortality.

A. On the contrary neither of the two evils exists which you say result from early marriage and early consummation. On the contrary the infantile mortality is avoided and prevented and reduced. Similarly the deterioration of the race is also prevented and reduced. My reasons are these:—Now take a case which practises early marriage and take a case which practises late marriage. Do you not observe deterioration in both these cases? You find physical deterioration at least both in the Brahmins and non-Brahmins. If that is so, the causes for deterioration should be found not in early consummation or early marriage but elsewhere. There are various reasons for this. Amongst the poor there is the absence of sufficient food. Amongst the rich there is ill-discipline, irregularity and wayward life and common to both you find short intervals between successive deliveries. These are the three causes which sap the vitality of the poor woman and which destroy the vitality of the rich woman.

Q. Do you mean to say that a child born of the mother aged 13 is much more healthier than the child born of an older mother say 16 or 17?

A. Such child is much more healthier and much more intellectual than the babies born of older mothers. Early consummation and early maternity are safer to the mother and to the child in several ways.

Q. I am not talking of late consummations. We are only talking of consummations at 13, 14 and 15 or earlier.

A. I should take the case of parturition at the 13th or 14th year. Here the parts of the women are very elastic. As a matter of fact I have read the opinions of the modern doctors and their premises are entirely wrong. They take their statistics from maternity hospitals. Who are the class of women that go to these hospitals: the poverty stricken women whose vitality has had a very low ebb and amongst the rich the ill-disciplined people who by their desoluteness have wrecked their lives. It is these kind of people that go to maternity hospitals. So, the statistics taken from these hospitals are very misleading.

Q. You say that amongst the non-Brahmins and Brahmins the maternal and infantile mortality is the same. But it has been pointed out by the Health Officer recently that the mortality of infants amongst the Brahmins is larger than amongst the non-Brahmins?

A. You must distinguish between castes who practice early marriage and early consummation. The non-Brahmins include Vaishyas. I do not accept the premises of the Health Officer. The premises are wrong. I cannot accept his facts. My experience is completely otherwise. It cannot be so in Madura Municipality.

Q. Is it not true that Shusruta recognizes that if a child is born to a girl under 16 by a man who is under 25, it dies soon after birth or is weak or shortlived?

A. There is a mistake in the text. It has been pointed out by Ashtanga Hridaya that the figure is 20 and not 25 for a man.

Q. So far as the girl is concerned is 16 alright?

A. What he means is that there ought to be a difference of at least 9 years between the age of the boy and the girl. You will find from the last

line where he shows "his object to be to stop early consummation". He has given the age only by way of an illustration which was applicable then. At that time there was a disciplinary life and the chances of errors and lapses were very few. The girls at that time used to attain age at 15 or 16 but the modern girls who are going to public schools attain puberty earlier.

*Q.* Do you think that the modern girls attain puberty earlier because they are going to public schools?

*A.* Certainly so. First their fathers and brothers should educate and when they come under the control of their husbands, the husbands should educate them.

*Q.* But if the fathers and guardians cannot find time to educate their daughters, would you advise them to go to schools?

*A.* There is a beautiful system amongst us namely the reading of Mahabharata, Ramayana, and Bhagwat Gita, which contain a store of knowledge and this is more than sufficient for them to study.

*Q.* In any case I am talking of the ordinary people. Will they be able to master Mahabharata and Ramayana?

*A.* They can do so from their girlhood. As a matter of fact every day it happens that a Brahmin puranic teacher expounds the Ramayana in such a beautiful fashion that it is fixed in their minds.

*Q.* May I take it that amongst the Brahmins girls attain puberty earlier now because they go to public schools, and not so amongst others?

*A.* They go to public schools and not only that, they also attend theatrical performances and cinemas and read novels. All these have a stimulating effect on them. So they attain puberty earlier than before.

*Q.* What about the girls who are in rural areas?

*A.* They are very healthy and are free from these vices.

*Q.* In their case would you advise that the age of maternity shouldn't be lower than 16?

*A.* There is absolutely no necessity for it because they attain puberty itself at a very late age.

*Q.* So there will be no harm in fixing the age for consummation?

*A.* Why should you legislate in this matter? Legislation in these matters, is a wrong thing and it will be tyrannical.

*Q.* In this connection does not Ashtanga Hridaya also recognize that a girl is not fit for maternity before she is 16. Is that not so?

*A.* No; it is not so. Even before the fixed age is reached, you find an offspring of these marriages resulting in very healthy and intellectual children.

*Q.* It says that if a girl who is completely sixteen is mated with a person who is above 20, then the offspring is strong.

*A.* In my view I interpret it only as meaning that anyhow there ought to be a difference of four years between the age of the boy and the girl and that is my point. If he thinks differently from the actual experience the experience must override what he says.

*Q.* It is stated by medical witnesses that there is no proper ossification of the bones till a girl attains the age of 18 years or so and therefore it is unsafe for the girl to bear the strain of maternity. Would this affect your opinion one way or the other?

*A.* Is the ossification the determining element? On the contrary I should suppose that if the bones do not become rigid and elastic, then that will be a recommendation for early parturition because when once elasticity is secured by early parturition that is maintained also in later life.

*Q.* Concrete instances have been brought to our notice that where consummation has taken place before puberty or soon after puberty, there has been much trouble at maternity.



A. Troubles are more difficult after the 20th year.

Q. What age would you fix for maternity?

A. Conditions being normal, there being no complications, the appearance of puberty is the loudest declaration of her fitness to be a mother.

Q. Now there are communities in this presidency which observe early marriage and if we are shown that evil results have followed such marriages, would you not advise that some action should be taken in the interests of the public?

A. Change the present conditions. Go back to the conditions which we were enjoying before. Do not change the law to suit the whims and caprices of persons. When we were ruled by our Indian Princes, they knew everything of our difficulties; but now we are ruled by foreigners. They don't know the troubles we are suffering.

Q. Have you not got your elected members in the Councils?

A. I don't know if there is any member here; and what section of the public he represents, I don't know.

Q. There is Mr. Sesha Aiyangar who is in the Legislative Assembly?

A. I leave it to him to say whether he is really voicing the feelings of his electorate. What you should do is to go to the villages, take their opinion and pay surprise visits and then you will be surprised to learn that 99 per cent. out of 100 per cent. will be of the view which I am placing.

Q. May I understand that in order to go back to the old conditions, you require the state to be properly constituted?

A. Yes. But it is not possible for a long time to come.

Q. Are you in favour of fixing an age for marriage to prevent early marriages amongst the communities which practise it?

A. Certainly not. I wouldn't tolerate any legislative interference in matters of this kind and in matters of joint families and castes.

Q. But if the state were properly constituted, would you have any objection?

A. That depends upon the constitution of the state. The principles of self-government which I find have been enunciated in the newspapers and reports, are not the kind of self-government which we were having before. Unless we go back to the self-government which we were having before I won't recognise any Government as a Government which is entitled to legislate upon these matters.

Q. Supposing the legislature decides to have legislation would you make any recommendation relating to the age of marriage?

A. We have been resenting this. But if still the Government decides to have legislation we are quite helpless. If you want, in the spirit of helpless resignation of the poor, I would recommend 10. I should say that the marriage of girls ought not to be beyond their tenth year. The maximum age under no circumstances should exceed 10.

Q. If the Government decides to fix an age for consummation, what age would you recommend?

A. If you want to subject it to legislative enactment I would not fix anything other than the age of puberty. As a matter of fact you cannot fix a common age for all. There are three classes of women, viz., the Vataja, the Pitaja and the Daruna. Therefore your fixing the age would be misleading?

Q. I would like you to suggest an age which might work in practice and secure the object in view.

A. That again is independent of any other circumstance. It depends not merely upon the age but upon many other conditions.

Q. Are you aware of the present law of the Age of Consent?

A. Yes: we have submitted to it.

**Q.** So that you have no objection.

**A.** I have ample objection but I have no voice in the matter.

**Q.** Has any attempt been made to repeal the law? •

**A.** A single machine gun will drive us away to the sea-shore. My grievance is the moment a member is appointed, he does not represent the opinion of the electorate subject to honourable exceptions. • •

**Mr. Bhargava:** May I know if there are any child widows in the Brahmin community?

**A.** Yes, there are.

**Q.** In your opinion is the state of things regarding the child widows very deplorable?

**A.** That again depends upon the meaning you attach to the word "deplorable". As a matter of fact a widow occupies a very sacred position.

**Q.** I am not concerned with her after death. So far as the question of her existence in this world is concerned, I want to know whether the state of things regarding her, according to your views, is deplorable or not.

**A.** She has been by becoming a widow given the privilege of discipline at a very early age. I will call it a privilege for her.

**Q.** The question is not how child widow is brought about. I want to know whether in your experience child widows have been put to troubles or not.

**A.** By whom?

**Q.** By the social customs; by those who live with them or by those who support them.

**A.** By troubles you mean the troubles caused by the shaving of the head.

**Q.** It may be one of them.

**A.** That is not a trouble.

**Q.** I want to know whether in your opinion her condition in the Brahmin society is deplorable or not.

**A.** I don't think it is deplorable in the light of what you have been saying now.

**Q.** Is she properly looked after?

**A.** Certainly. She is equally looked after as any other girl.

**Q.** So far as other matters are concerned for instance she has got a desire just as ordinary girls have a desire, in that respect, you are of the opinion that they should be allowed to remarry?

**A.** If they want to satisfy their sexual impulses, they can remarry.

**Q.** May I know what do you mean by widow remarriage?

**A.** I am absolutely against it. Nothing is better calculated to wipe out the Hindus out of existence. I am absolutely against widow remarriage.

**Q.** Now as regards these child widows do you know of any Shastric injunction that virgin widows should not be allowed to remarry?

**A.** The Shastras do not make any distinction between virgin widows and other widows.

**Q.** Do you know that the Government has passed a law whereby the widows have been allowed to remarry?

**A.** It is a dead letter.

**Q.** If you do not restrict it to the Madras Presidency, I would say that widow remarriage has since taken place amongst the Brahmins outside the Madras Presidency.

**A.** I have no knowledge of any other province except the Madras Presidency.

**Q.** May I take it therefore that you are in no way concerned with the question of child widows in this presidency, their condition being not deplorable, you will in no way feel for them? I want to know whether this evil is felt in the Madras Presidency by the Brahmins in general.

A. I don't think it is felt at all. If any man feels it in my Presidency, I say it is an unjust and unjustifiable feeling.

Q. Is it on account of the absence of any evil or on account of the perverted nature of those who do not feel for them?

A. It is on account of the perverted nature.

Q. Should I understand that these child widows become widows on account of their evil karmas and we should not feel for them?

A. All that I will say is that they are reaping the fruits of their past karma.

Q. Have you ever felt pity at the sight of a blind or lame person or on account of the doctrine of predestination you think such a feeling is sinful?

A. I have felt such a feeling.

Q. I take it that so far as the Brahmins and those who follow the Brahmins are concerned in the Madras Presidency generally consummate the marriage at the age of 12.

A. It is done between 12 and 13.

Q. Have many of them broken the law after it was passed?

A. Many of them break the law out of ignorance.

Q. The Brahmins are literate and those who know the law, do not break it. Is that so?

A. Those who know the law do not break the law for fear of temporal punishment.

Q. Supposing the present law is raised to 14, may I know what will be the consequences? What shape the resentment will take?

A. I am not prepared to say that. I don't know what consequences will happen. If you attempt to increase the age you will rouse a slumbering volcano.

Q. May I understand that amongst Brahmins such of them as marry their girls beyond 13 are socially excommunicated?

A. No; they are not looked upon as excommunicated persons.

Q. I understand that so far as the advanced Brahmins are concerned there is a movement for an increase in age. Is that a fact?

A. Advanced; is it in the Brahminical sense or you mean the degenerated Brahmins.

Q. I mean the degenerated Brahmins. In your expression "the degenerated Brahmins" such of them as marry their girls beyond the age of 13, what is the percentage of such Brahmins?

A. I haven't made any calculations. I can say the proportion is increasing year after year.

Q. So in your view this class of degenerated Brahmins will become large enough say in 20 years. In other words they will become the majority.

A. They will never become the majority and remain the same for at least a century to come.

Q. Is there no physical or intellectual deterioration amongst the Brahmins?

A. No. There is no physical nor intellectual deterioration amongst the Brahmins.

Q. On the contrary, on account of early marriage and early consummation they are intellectually getting stronger and stronger. Is that what you mean?

A. There is no connection at all between early marriage and intellectual development.

Q. What do you think of the physical development?

A. Early marriage is not the cause and it might be due to some other causes.

Q. My question is 'when compared with our ancestors', is there physical deterioration or not amongst the Brahmins?

A. I must frankly confess that there is some deterioration physically.

Q. You just now said that girls in former days used to attain puberty at the age of 15 or 16 but now they attain their age at 11 or 12. I want to know whether this is due to physical deterioration or some other causes.

A. It is due to very different causes. It is chiefly due to the modern conditions and the environments. To stop puberty at 11 or 12 is not in our control.

Q. When do girls in villages attain puberty?

A. The puberty now comes on above 14. There are also cases where puberty appears at 15 or even beyond 15.

Q. As you yourself say that you have no control over puberty appearing at 11 or 12 and these are inevitable, would you not in the interests of the race agree to raise the age for marriage and consummation?

A. Why should we not look at the other side of the question? Why should you not change the conditions.

Q. Do you mean to say that the Government of India should distribute to every Brahmin Rs. 5 per month?

A. I don't want it.

Q. Then what is the change you want?

A. The change that I want is to reduce the poverty.

Q. Supposing it is not in the power of any legislature to reduce the poverty or for some other causes they are not able to do it, will you then agree in the interests of the race to increase the marriageable age and the age of consummation?

A. I will not even then agree.

Q. May I know what is your reason?

A. I would rather obey my religion but not a temporary Government.

Q. I understand that the sole basis of your attitude is based on religion.

A. The whole life is bound to be in religion. That is the main basis.

Q. What are the other basis?

A. They are the basis which follow strictly the religious basis.

Q. So far as religion is concerned, may I know if there is any Vedic authority upon this point?

A. I am not aware of it. I have not studied the entire Vedas.

Q. Leave aside the Vedas. Let us come to Smritis. Do you know of any authority which enjoins postponing the marriages and still regarding people postponing marriages as orthodox?

A. How can I control the views of those people?

Q. You agree that you regard the Vedas as most authoritative.

A. Yes.

Q. Supposing the Vedas insist that a girl can only be married after puberty, will you agree to that?

A. I cannot conceive of that. But if it is so, I would certainly bow down to it and I will be the first to obey.

Q. May I take it that so far as the Dwijas are concerned, the rule as regards the marriage is the same?

A. There is a difference of age. For a Brahmin a particular age is fixed. For a Kshatriya a particular age is fixed and for a Vaishya a particular age is fixed.

Q. I want an authority for your saying that for the Brahmins, Kshatriyas and Vaishyas different ages have been fixed by religious authorities.

A. The age of Upanainam for the boy is the age of marriage for girls. For instance if the Kshatriya boy is to have his Upanainam at 10, the Kshatriya girl ought to be married at that age.

Q. If I tell you that according to the figures that we have got, for instance 260 infants below the age of 1 die out of 1,000 amongst the Sourashtras in Madura and 220 infants below the age of 1 die out of 1,000 amongst the Brahmins whereas amongst other classes, viz., Christians and Mahomedans, the number is much less, will you be surprised at these figures?

A. I want to know what is the class of people amongst whom these deaths take place. Is it the extremely poor people?

Q. Both amongst the rich and poor.

A. I want to know whether these 260 deaths occurred amongst the poor or amongst the rich and poor. If I know this I can give you an answer. Besides, these figures by themselves cannot lead to any conclusions whatsoever. Further premises are necessary before reaching a conclusion.

Q. Supposing these are the figures, will you not be surprised at that?

A. These figures lead to no tangible results.

Q. How will you explain this great discrepancy in the death of infants?

A. Poverty induces weakness and it leads to infantile mortality as well as maternal mortality at an early age.

Q. May I take that as a rule Brahmins are weaker as compared with non-Brahmins, Christians and Mussalmans?

A. They are not weaker. So far as strength is concerned they are as good, there are as many weak people among the flesh eaters as there are among the non-flesh eaters.

Q. You say even if there is early maternity there is no harm and you further say that Brahmin mothers also are as strong as in other communities. Is it not so?

A. Maternal and infant mortality are due to poverty.

Q. You say that the maximum age of marriage is 10 years.

A. Yes, a girl ceases to be a *Young* after her 10th year.

Q. May I take it that you are on principle against any legislation about marriage or consent?

A. Yes.

Q. What is generally the age of marriage amongst Brahmins here?

A. It is much higher than what it ought to be. Generally it is between 11 and 13.

Q. What is the marriage age of boys?

A. It ranges from a minimum of 12 to a maximum of 22.

Q. You are speaking of the injunction of the Shastras regarding marriage. I believe there are orthodox people of that view. What are the particular texts on which they rely?

A. So far as I have studied them the substance is that the marriageable age of girl is not to exceed 10 and for boys there is no limit.

Q. Some of the witnesses have said that a boy of 24 should marry a girl of 8.

A. If you read all the Vedas it will take 26 years but if you read 2 Vedas 24 is efficient.

Q. May I take it that according to scriptures the minimum age of a boy for marriage is 24 and the maximum age of a girl for marriage is 10?

A. Conditions vary. We are not reading the Vedas.

Q. You say that Brahmins do not follow the Shastras?

A. It is not that they do not follow but they find it impossible to follow them literally. The form is gone through but the spirit is not there. They read the first *mantram* and the last *mantram* of the Vedas.

Q. But in practice girls are not married generally before 10. Is it only the boys who wait till 24th year among the Brahmmins?

A. Yes.

Q. But as a general rule they are not ex-communicated by other Brahmmins.

A. All are becoming equally sinners. If society does not ban them the society becomes sinner.

Q. In para. 7 you say that no religious text enjoins consummation before puberty. It appears to be merely directory, not mandatory in its nature, judged by the Meemamsa rules of interpretation. Will you kindly explain how you call it directory and not mandatory?

A. There are some *vidhis* called *nigam vidhis*. There the temporal evil is distinguished from the spiritual.

Q. And where there have been such recommendatory changes there have been changes in the rules?

A. Those rules are not mandatory that they must be obeyed at all times.

Q. In para. 6 you say that the practice of consummating the marriage between the first appearance of the menses and the second which seems to have prevailed in the past among the extremely orthodox and conservative Brahmmins of the far off interior in the Districts of Tinnevely and Madura has virtually died out. It is this text of Manu which says that the consummation ought to be made between the first menses and the second menses of the girl that is recommendatory. Do you consider that attainment of puberty is by nature a sufficient indication for consummation?

A. It is an indication of fitness to become a mother.

Q. May I take it that you believe that in ancient times people were healthy and generally they attained puberty at 16; so they recommended 16?

A. The conditions obtained then were quite different. What I understand from the text is that there ought to be a difference of 9 years between the boy and the girl.

Q. We have it on evidence that normally girls attain puberty earlier?

A. These are abnormal conditions.

Q. So generally now we cannot take the sign of puberty as an indication that the girl has attained real maturity. Will you call a girl who attains puberty at 12 a sickly girl?

A. It may be that modern conditions are such that have affected her. Original healthy conditions ought to be restored. In the first place let not the girls be sent to schools, it ruins them. The feminine graces, capacity for forbearance and modesty, all these disappear. By attending cinemas and theatres, and by reading novels, sexual appetite become keener and sexual abnormalities become more frequent. If all these evil effects are put aside then normal conditions will be restored and girls will attain puberty at the normal age of 15 or 16.

Q. You think that because of the abnormal conditions girls do not attain puberty earlier. Is it not that they are weak or diseased?

A. It is not an abnormal condition but it is not a healthy condition.

Mr. Mudaliyar: As regards consummation is the *shloka* of Manu which says that it should take place before the first and second menses the only religious injunction with respect to the age of consummation?

A. That is the only religious injunction that I am aware of.

Q. Has it been practically a dead letter for the last two or three years?

A. Yes, it is and we have become sinners to that extent.

Q. Does it really matter so far as religion is concerned or sin is concerned when consummation may take place?

A. If we have committed one sin we should not go on committing sins.

**Q.** You may say that early marriage and early consummation is done from the point of view of purity of race intellectual development and from the health point of view but it does not really affect religion proper. Is there any religious authority apart from this for early consummation?

**A.** I cannot point out the text which supports that view which I have been putting forward.

**Q.** We have been taking opinion from well-versed Pandits but none of them have been able to give any text besides this. Granting that there is some other text on what religious ground can you raise objection to fixing the Age of Consent at 14 irrespective of the age of puberty?

**A.** The principle which underlies the text of Manu is that consummation should take place within 16 days of the first puberty.

**Q.** You realise that it is a matter of interpretation. Supposing one person considers that among Brahmins some have the consummation ceremony performed 3 months after puberty, some 6 months and some postpone it for one year, and each of these persons follows the underlying principle of the text of Manu.

**A.** Yes.

**Q.** Therefore if we suggest a rule being passed that consummation should not take place within 1½ years after puberty we would not really be violating the principles of the Shastras. Is it not?

**A.** I cannot put it as high as that. You will be violating the principle of the text.

**Q.** Would you like to have consummation before puberty?

**A.** Certainly not.

**Q.** Would you object to legislation that consummation should only take place after puberty?

**A.** Yes.

**Q.** Supposing there are a large number of cases in which consummation takes place before puberty. Supposing it brought to our notice that there is a large class among whom consummation before puberty is not exceptional but it is a rule, would you advocate legislation that no consummation should take place before puberty?

**A.** I was under the impression that there is no such class. One principle is that marriage legislation is wholly undesirable.

**Q.** But such practice exists among a large class?

**A.** Then I would not call that class the followers of Shastras. You are at liberty to legislate for such class whom I refuse to call belonging to the Hindu class.

**Q.** Would you like to go back to the old system if possible? Would you like to have legislation on those old lines if possible?

**A.** There is no need for legislation. Manu has got accumulated wisdom of so many ages. Therefore I would not support any intervention by legislation.

**Q.** What is the sanction behind the code of Manu? You are aware situated as we are, sinners are growing.

**A.** Bring round the number of sinners, make them observe the rules prescribed for them.

**Q.** Why not observe the rule by a more direct manner?

**A.** That should not be placed in the hands of temporal power.

**Q.** May I take it that the answers that you have given with reference to sin in this matter are confined to Brahmins and to those non-Brahmins who follow the Brahmins?

**A.** Yes. Leaving aside the Mahomedans and Christians my answer does not apply to non-Mahomedan communities who follow customs.

Q. Do you not suggest that they do not follow the law as they are now following?

A. That does not matter to me.

Q. In para. 14 you say that women not intoxicated with anti-Hindu sentiments (they form the cream and bulk of Hindu womanhood)—favour early consummation of marriage for their girls under normal conditions. Am I right in amending the statement so as to make it Brahmin women not intoxicated with anti-Hindu sentiments favour early consummation of marriage for their girls and they form the bulk and cream of Brahmin Hindu womanhood?

A. I accept your amendment.

Q. What is your opinion of that legislation which put down the practice of *sati*?

A. It was a custom. *Sati* never leads to *Moksha*. It may have a temporal benefit but it does not lead to *moksha*. Those who became *sati* may remain in heaven for sometime but they never attain *moksha*.

Q. Many people consider heavenly residence a very desirable thing. Was that not a desirable legislation?

A. Why should the State interfere to put down that practice. *Sati* was understood to be recommendatory, it was for each individuals to follow it or not but the State was not justified in enforcing legislation on this point. It should have been left to the individual discretion.

Q. And if individual cases of *sati* do occur to-day would you not look upon it as against the principles of humanity? If a woman voluntarily wishes to become a *sati* should no person stand in her way and put it down?

A. No.

Q. That should really be considered not a case for discretion but a case for reverence?

A. Yes. Even in China the practice of *sati* was being observed.

Mrs. Nehru: In the course of your evidence you have said that the object of marriage was to discipline the girl. May I know in what way early consummation soon after puberty leads to that?

A. By directing the sexual impulse in one and proper direction and that will be made possible only when the child girl gets herself disciplined to look upon one individual whether he be an ugly man or a learned man as her lord and husband. That can be done only when her age has not reached such limit as would arouse sexual impulse in her. The moment sexual impulse is aroused that cannot be done.

Q. Have you any experience or is it within your observation that directly after puberty a girl gets sexual desire?

A. Yes. I am of that opinion.

Q. Have you been connected with girls' schools or colleges or women's associations?

A. No; I condemn all these women's associations. I base it on what I know from every day occurrence.

Q. May I know the reason why the age of maturity differs among the Brahmins and non-Brahmins. All the reasons you have given which have brought about the age of maturity earlier than formerly apply to Brahmins and non-Brahmins equally. But we see from statistics that among Brahmins the age of puberty is much earlier than among non-Brahmins, Christians and Mohamedans. If the other reasons given by you are applicable to all communities alike what is the reason for this disparity?

A. Are you perfectly satisfied with the figures?

Q. We have got figures from half of India and they all say the same thing. We have got figures from Madura in connection with Saurashtras and Brahmins. These also show that puberty is attained earlier among Brahmins all other conditions being the same.



A. I have laid down several conditions—rich food and stimulants contribute towards it.

Q. Do you mean to suggest that Brahmins are getting richer food than Mahomedans?

A. There must be different conditions. You cannot judge from the figures given to you. Moreover, there must be different conditions which may be existing in one case which may not be in existence in other cases.

Q. Can you think of any other conditions?

A. Poverty.

Q. May I tell you that the Health Officer wrote to several schools to give him returns of the age of puberty of the girls. He wrote to one Christian school, two other schools and one training college and then from these figures he has drawn this conclusion that puberty is attained earlier, all other conditions being the same, among the Brahmins?

A. I do not accept the figures.

Q. Do you reject all these figures supplied to us from town to town and province to province?

A. There must be something wrong with these figures.

Q. Do you think that only cinemas, theatres and novel reading affect the girls and not the environments in which they live?

A. That is equally efficacious.

Q. The only difference in the environments of Brahmin and other girls is that their marriage is talked about from their infancy and they expect to be married early with the result that they attain puberty earlier than other girls.

A. From the very earliest age marriage has been talked about. In the case of widows they were given a privilege position to attain *moksha* at an early age.

Q. You say it was a privilege given to widows.

A. I mean it was a disabling circumstance to attain *moksha* for the widow.

Q. Would you like to give widowers the same privileges and put them in the same category and under the same conditions as the widows?

A. A widower is given liberty to marry but a widow is not given that liberty.

Q. You do not want to give the widower the same disabilities as the widow suffers from. May I know the reason why you place man and woman on different footings.

A. The functions of man and woman are to be considered. Women are to preserve the purity of the race and the men are here to propagate the race.

Q. But forcing early marriage and early consummation upon them and keeping them in circumstances in which they are kept at present don't you think you help more in making the race impure than purifying it?

A. But you proceed on the assumption that it is forced upon them. It is not so.

Q. Would you then give her the choice of selecting her own husband?

A. There are four agencies which are absolutely necessary for obtaining a husband for the girl. Father who looks to the character of the boy, mother who looks to the wealth of the boy and other relations who look to other conditions of the boy. If it is left to the girl alone she may be carried away by personal emotions.

Q. In former days were women allowed to choose their own husbands?

A. Except among Kshatrias I do not think there was any custom of *Swayambar*.

Q. Among Brahmins were women allowed to remain unmarried?

A. I have heard of one instance of allady called Virdhalaya. She reached the age of 80 but she was made to realise that whatever objects she may have in remaining unmarried she ought to follow the Shastras. Then she married but when she married she became transformed into a girl of 10 or 12.

Q. Did not Devyani marry long after puberty?

A. There was a relaxation of the rule in her case.

Q. Then there was Gargi who remained unmarried.

A. I have been trying to obtain information whether she married at all but I have not been able to find out whether she married or not.

Q. If such instances have taken place before can't the experiment be repeated now?

A. I can only have recourse to the saying one swallow will not make a summer. It will not be possible to make it a general rule because three instances occurred.

Mr. M. I. Kadri: What are the injunctions of the Hindu Shastras regarding the education of girls?

A. The education ought to be such as to make them good and dutiful daughters, virtuous, faithful and efficient wives, and wise mothers.

Q. In short the kind of education which will fit them to fill their spheres in life properly. Is it not so?

A. Yes.

Q. For attaining that kind of education how many years should be spent?

A. No special education is required. It is sufficient if the girls attend to what is going on in the house. You read for her the Ramayana and Mahabharata. They contain treasure houses of information. The ladies are so very intelligent, that, they can pick up anything, that is happening around them but unfortunately religious discussions are not held in the houses.

Q. If unfortunately due to circumstances prevailing at the present day we are not able to carry on Shastric and Vedic discussions in the houses don't you think that our daughters and our sisters should have some opportunity of receiving education?

A. The opportunity which you propose to give them will not result in the desired good. Hindu Shastras do not contemplate sending girls to public schools. They should remain in their own houses. Their brothers and fathers will teach them in earlier stages and husbands in the later stages.

Q. Hindu Shastras make provision for *Brahmacharya acasta* for men. Is there any similar provision for girls?

A. Absolutely none.

Chairman: One Mandodari asked her mother and father to remain unmarried and they eventually agreed.

A. That is the Puranas. Puranas are stories which have one particular object in view. For carrying out one particular object it has recourse to so many stories.

Mr. Kadri: In para. 3 you refer to indoor and outdoor work for women. What is the line on which you would model your law if you were a legislator?

A. The laws will be that women ought not to be allowed to encroach upon the proper sphere of action laid down for males, that is to say, males engage themselves in outdoor work. You may engage yourself in industrial enterprise, etc. These are the provinces of man. Similarly men ought not to be allowed to encroach upon the women's functions.

Q. If we are satisfied that a large number of women witnesses who have appeared before us consider it a real hardship to be forced into maternity at an early age, don't you think we should respect that opinion?

A. I consider it our duty to dispossess women of that misconceived notion. If a woman does not wish to become a mother she is not fulfilling her duty properly. \*

Q. They want to be mothers but at a proper age and not when they are not ripe. Doctors say they are not fit for motherhood before 3 years after puberty. What do you say to that?

A. I will put aside the opinion of the doctors.

Q. We are told that boys and girls who go in for early marriage are ruined. What do you say to that?

A. That is not on account of early consummation but it may be due to other causes.

*Chairman:* So far as widows are concerned do you think their condition in Hindu society evokes no sympathy and no feeling from you?

A. Does a widow stand in greater need of sympathy than a blind man.

Q. We should try to alleviate their condition as much as possible.

A. We have laid down certain paths—you be devoted to your past husband.

Q. You say that these widows have been allotted a particular function. Are we not depriving them from performing that particular function?

A. Their past actions deprive them of that privilege if that is a privilege.

Q. You say that the Smritis lay down that marriages should be performed before puberty. Is that injunction mandatory or recommendatory?

A. It is mandatory.

Q. Is not that injunction daily being broken by the Brahmins themselves?

A. No; if anybody breaks it at all, he does not say he has done so.

Q. Are not people concealing puberty sometimes for delaying marriages?

A. It is possible they are.

Q. Do not the Shastras say that if a girl attains puberty when the marriage is taking place, a purification ceremony should be performed?

A. Yes.

Q. Does not that mean that marriage is not invalidated merely by the fact that puberty has taken place?

A. There is the possibility of the purification ceremony only if puberty is attained after the Saptapadi has been gone through. If puberty is attained earlier, the marriage is not valid.

Q. Manu says that if a proper husband is not available for three years after menses, the girl can choose her own husband. Is that not so?

A. That is only to make the fathers realise the desirability of finding suitable husbands for their daughters before they grow old.

Q. Is it not a fact that a girl can marry a husband of her own choice if she remains unmarried 3 years after puberty?

A. It is not Kanyadhau as it is generally understood. The offspring of the pair are not also allowed the same position as the other Brahmins. Marriage after puberty is not Kanyadana whatever else it may be.

Q. Does not Baudhayana say that Brunnahatya occurs if a girl remains unmarried for three years after puberty?

A. It is not necessarily so. Brunahatya occurs at every menses of the girl.

Q. You say that consummation should take place within 16 days of the first menses. But the sloka you refer to does not mean that it should take place within 16 days of the first menses, it can take place within 16 days from any menses. The sloka does not say that it must be after the first Ritu.

A. It is what the commentators have said. Even if the injunction is to the effect that the approach should be made within 16 days of the Ritu, it draws within its ambit the first Ritu also.

**Written Statement, dated the 7th August 1928, of Mr. A. RANGA-SWAMI IYER, Advocate, Madras.**

(1) Yes. There is dissatisfaction.

(2) In my opinion there are circumstances which justify making an advance on the present law. They may be briefly stated as follows:—

*In Marital relations—*

(a) Such an advance would lessen the rate of mortality amongst girl-wives on account of early child birth.

(b) It would tend to prevent illness and wasting diseases amongst girls and young women owing to early child birth.

(c) It would diminish the high rate of infant mortality.

(d) It would give greater opportunity than is available now for the education and physical culture of girls.

*Outside marital relations.*—A girl being under 16 years should be deemed to be no protection for the offender—*cf.* Section 361, Indian Penal Code.

(3) The crimes of seduction or rape are not frequent in our part of the country.

The amendment of the law made in 1925 has not succeeded in preventing or reducing cases of rape outside marital state or improper seduction of girls for immoral purposes.

One way of making the law more effective is by raising the Age of Consent above what the amendment of 1925 lays down.

(4) As consummation generally takes place amongst girl-wives of the higher castes in this part of the country when they are 14 or 15, the raising of the Age of Consent to 18 years has not been of any appreciable practical utility. Nor has it been effective in preventing the comparatively rare cases of consummation in case of girl-wives of less than 18 years, as these cases are rare and difficult of detection.

(a) There has been recently a tendency to postpone consummation. This tendency is due more to the difficulty of securing suitable husbands for girls rather than to the amendment Act 29 of 1925.

(b) Public opinion has for the same reason not been stimulated by the legislation of 1925 as the predominant factor in postponing consummation is the economic question of securing suitable husbands.

(c) The amendment of 1925 has not raised the marriageable age of girls beyond 13, since the generality of marriages take place ostensibly, for the girls of the higher castes, on the ground that they should be pre-puberty marriages, apart from the question of age.

The only way of making legislation effective for producing the effects contemplated in clauses (a), (b), (c) is by raising the age clearly beyond the average age of puberty for girls which is 13 or 14.

5. Girls attain usually puberty at 13 or 14 in this part of the country. This age differs in different castes, communities or classes of society. But amongst the higher castes amongst whom early marriage is in vogue, this is the age.

6. Cohabitation is not common (1) before puberty. But it is common (2) soon after puberty. But not usually (3) before the girl completes 13 years. These cases do not come to Court.

7. The practice of early consummation of marriage before or after puberty wherever it exists, is mainly based on what are supposed to be religious injunctions. To a smaller extent it can be attributed to a desire to see a girl settled on her husband's home as early as possible, and thus to relieve the parents or guardians of the girl of their responsibility. Some authorities or religious injunctions prescribe that marriage of girls should take place

before puberty. But I cannot cite any authority or religious injunction prescribing that early consummation should take before or after puberty, except certain Grihya Sutras prescribing consummation on the 4th night of marriage.

8. "Garbadhanam" ceremony is usually performed amongst the higher castes in our part of the country. It practically coincides with the consummation of the marriage which immediately follows the ceremony.

It is generally performed after attainment of puberty and the interval may vary from a few days to a year or so.

9. I consider that the attainment of puberty is not a sufficient indication of physical maturity to justify consummation of marriage.

I consider that a girl should be 16 before consummation can take place without injury to her own health and that of her progeny.

10. 16 would be the age when a girl can be deemed competent to give intelligent consent.

11. I can cite 2 cases where cohabitation took place after puberty when the girls were not fully fifteen. They gave birth to children. The child of one died. Both the mothers are weak and have not recovered their normal health.

12. I consider early consummation and early maternity responsible in certain high castes for high maternal and infantile mortality, though lack of care of expectant and nursing mothers, and babies might have also contributed to that result. Besides affecting rate of maternal and infantile mortality, they have been responsible for lowered vitality of such mothers and children.

13. There has been a development of public opinion in our part of the country for extending the Age of Consent since the amendment of the law in 1925. It is generally confined to those who may be called the educated classes.

14. Women in our part of the country who have not been brought in contact with modern influences but are influenced by tradition favour early consummation; others who are in such contact would decidedly favour later consummation except in cases where local social opinion is too strong for them, and they are not willing to brave it.

15. I have not come across cases where difficulties were experienced with respect to the determination of ages for offences under Sections 375 and 376 both before the amendment of 1925 and after 1925. If the age be raised to 16, the difficulties will not be greater than in regard to proving age in a case of kidnapping a minor girl from lawful guardianship under Section 361, Indian Penal Code.

16. The difficulty or the margin of error in determining age would be reduced if the age is raised to 14, and materially reduced or minimised if it be raised to 16.

17. I would not separate extra-marital offences into different offences. But I would discriminate the punishment to be inflicted in the two cases. The marital offence where the wife is between 14 and 16 should be punishable only with a fine not exceeding Rs. 1,000, while the extra-marital offence would be punishable as now with imprisonment or transportation, and marital offence where the wife is between 12 and 14 would be punishable with imprisonment for 2 years or fine or both.

18. The trial of offences within the marital state may be *in camera* as distinguished from the open trial of the offences outside the marital state, especially when the wife is between 14 and 16. Marital offence may be bailable, and Police may not arrest without warrant, as it is at present.

19. The marital offence where the wife is between 14 and 16 should be indictable with the sanction of the District Magistrate or other officer authorized by Government, and the trial should be before a Presidency Magistrate, District Magistrate or Court of Session. Before issue of process against

the accused, a preliminary enquiry by a Magistrate under Section 202, Criminal Procedure Code, may be prescribed.

20. Legislation fixing minimum age for marriage would be deemed a greater interference with social customs and usages than enacting penal legislation fixing a higher Age of Consent for marital cases. The latter will be more effective than the former and would be more in consonance with public opinion.

21. As the progress of Social Reform by means of education and social propaganda would, if unaided by penal legislation, be necessarily very slow, and as the results of early consummation are disastrous to the community, and should be checked without delay, I would prefer to rely on the strengthening of the penal law to secure the object in view.

### Oral Evidence of Mr. A. RANGASWAMI IYER, Advocate, Madura.

(Madura, 28th November 1928.)

*Chairman:* How long have you been Advocate of the High Court?

A. I started practice in 1895. I have had 34 years' practice.

Q. How long were you Public Prosecutor and Government Pleader?

A. From 1907 to 1917 I was Public Prosecutor and Government Pleader in Ramanad and Madura Districts.

Q. Are you connected with any social reform movement in this part of the country?

A. I have been taking a general interest in these matters. I have attended many meetings and conferences, and I have also spoken on many platforms.

Q. What is the usual age of marriage of girls in this part of the country?

A. Amongst Brahmins and those who follow Brahmin customs it ranges between 10 and 13 years.

Q. Is it a fact that there is a tendency towards delaying the marriage?

A. Yes.

Q. Is it due to education amongst the people?

A. It is due mainly to economic causes and the difficulty of getting suitable husbands, and to a slight extent to education.

Q. Are marriages after puberty being tolerated by the Brahmins?

A. They are winked at.

Q. Is there social ostracism?

A. No.

Q. Do you consider that the texts relating to marriage before puberty are mandatory?

A. I consider them only recommendatory.

Q. What is the age you would recommend for the marriage of girls?

A. I would recommend 14.

Q. And what age would you recommend for consummation?

A. 16.

Q. Do you think that it is necessary that we should fix the age at 16 both in the interests of the mother and the child?

A. Yes.

Q. Can you give us some instances where there have been evil results following early consummation?

A. I think I remember two cases. One girl was 14, and another girl was about the same age. One of the children died. Both the mothers were enfeebled. The girls were married about a year or a year and a half back.

**Q.** Do you think it will be possible to discover cases of consummation before the prescribed age where they take place privately?

**A.** As a general rule consummation does not take place privately. It is usually preceded by a religious ceremony which is public and relations are also invited. There are Purohitas officiating at the ceremony. Therefore consummation, is always a public ceremony unless in some cases it is done surreptitiously.

**Q.** How long after puberty is the Garbhadan ceremony observed amongst Brahmins?

**A.** It ranges from a few months to one or two years after puberty.

**Q.** Would you recommend a system of registration of marriages giving the names of the marrying parties, their ages and other particulars, so that we might be able to find out whether the law has been infringed?

**A.** I would recommend it; but I would hesitate to set up some portion of the community in uproar merely for policy sake, more than what may be necessary.

**Q.** Do you think there will be difficulty in enforcing the law?\*

**A.** There would be no difficulty.

**Q.** On whom would you place the obligation of maintaining these registers?

**A.** The work may be done by the Registration Department.

**Q.** Would you give it to the Municipalities and District Boards, or to the Revenue Department?

**A.** I would give it to any of these agencies provided they are properly checked. I think in towns Municipalities would be good.

**Q.** Now offences under 12 are cognisable by the police, and above 12 they are non-cognisable. Would you keep the law as it is or would you make any alteration?

**A.** I would have marital cases divided into two kinds, between 12 and 14, and 14 to 16. Up to 12 cases should be cognisable and 12 to 16 non-cognisable.

**Q.** Do you not think that the wife's parents would not like to bring the son-in-law into trouble?

**A.** Therefore I make a differentiation in the punishment. I would have 2 years' imprisonment from 12 to 14 and fine only between 14 and 16.

**Q.** In order to reintroduce good relations between the parties, would you make marital cases compoundable?

**A.** I would make cases between 14 and 16 compoundable with the sanction of the Court. There may be cases where the Court can exercise its discretion. Between 12 and 14 I would not make the cases compoundable.

**Q.** At present the system is that cases under 12 go to a Sessions Court, and above 12 to a Magistrate. Instead of these two Courts, would you make all marital cases go to a matrimonial Court consisting of a Magistrate and two non-officials?

**A.** Yes; I would like to associate non-officials with the Magistrate.

**Mrs. Nehru:** You want 16 to be the age for outside marital relations.

**A.** I have put 16 because I find that for kidnapping from lawful guardianship the age is 16.

**Q.** For procuration for immoral purposes it is 18, and also a girl is a major when she becomes 18. Would you therefore rather have 18 for extra-marital relations?

**A.** I think we should rather go gradually, and for the present I would have the age raised from 14 to 16.

**Q.** Do you not think that in matters like this frequent changes in the law are not advisable, and that it is therefore better to fix the age once and for all?

A. Then I would like that Section 361, Indian Penal Code also should be amended and the age raised to 18.

Q. Then in that case would you be able to control the Devadasis?

A. I think the State should be able to control it. In other countries the State is controlling such evils.

Q. After the amendment of 1925 have there been meetings on the Age of Consent in Madura?

A. We have held meetings both in support of Sarda's Bill and in support of the raising of the Age of Consent.

Q. Was it a meeting of men or that of women?

A. I think it was men only.

Q. You say that in some cases women want later consummation for their children except where local social opinion is too strong for them. Do you know of any communities in which local social opinion is so much advanced as to be able to prevent early consummation?

A. Social opinion is not so far advanced as to be able to prevent such consummation.

Q. Do you know of any communities where the conditions are so far advanced?

A. Women in this part of the country who are influenced by tradition favour early consummation. Others would decidedly favour later consummation except in cases where they are afraid of local ostracism.

Q. Why do you say that the Age of Consent legislation would be more effective than marriage legislation?

A. Because I think the general public would not raise objection so emphatically to the Age of Consent law as to the marriage law. I suggest Age of Consent law as a line of lesser resistance.

Q. At the same time do you not think that it will be difficult to make the law operative?

A. I would favour both laws. But I do not think that it would be difficult to operate the law of the Age of Consent because Garbadhan ceremony is a public affair.

Q. Is Garbadhan ceremony practised amongst all communities who practise early marriages?

A. Amongst Brahmins it is invariably observed. It is the custom amongst the Vysyas also.

Q. Supposing consummation takes place without any ceremony how will you know such cases?

A. Such cases are very rare.

Q. Do you think that if the power of complaint is given to social reform organisations, the public is advanced enough to help them?

A. The public will certainly help recognised social reform organisations. But unfortunately in Madras we do not have social reform organisations of any standing.

Q. Even if such organisations do not exist at present, do you think that we can find men and women who would be willing to take up such work?

A. I think we can get people like that.

Mr. Mudaliar: What would you have for the age of marriage of girls?

A. 14.

Q. And for the Age of Consent?

A. 16.

Q. Do you think that legislation on these lines would be acceptable to a fair number amongst Brahmins?

A. There will always be some kind of opposition to measures of this kind; but after some time things will quiet down.



**Q.** Do you think there will be riots?

**A.** No.

**Q.** Do you think that the age of consummation at 16 would be acceptable to a fairly large number of people?

**A.** 15 would be liked better than 16.

**Q.** Do you think that there are many cases of consummation at or about 15?

**A.** Yes; a fairly appreciable number.

**Q.** What interval do you think generally elapses after puberty?

**A.** It is generally one year; but there are some cases the interval is 1½ years or 2 years. If the interval is more than that it will lead to gossiping.

**Q.** Apart from religion, do you think that there is any danger to the morality of the girls amongst Brahmins if the consummation is delayed by a year or year and a half after puberty?

**A.** There is absolutely no danger.

**Q.** As regards the procedure in the trial of the cases, you are of opinion that when the girl is between 14 and 16 the sanction of the District Magistrate should be obtained before a prosecution can be launched.

**A.** Yes.

**Q.** How is anybody to know whether the girl is between 14 and 16? The Prosecutor will say that the girl is under 14 so that preliminary sanction might be avoided.

**A.** Such difficulty arises in kidnapping cases. But legislation of this sort will have to be supplemented by a more stringent form of registration of births. These are questions which always present difficulties, and the only solution is to make the registration of births effective.

**Q.** Who do you suggest would be the prosecutor in cases like this where the girl is between 14 and 16?

**A.** It does not matter who is the prosecutor. My object is to put all sorts of obstacles in the way of frivolous prosecutions.

**Q.** Do you mean to say that while you would give the right of complaint to the public at large, you would at the same time restrict the right by saying that when the girl is above 14 the person who takes upon himself the duty of prosecuting should first get the sanction of the District Magistrate?

**A.** Yes; the Magistrate before whom the complaint is made may make a preliminary investigation and then sanction the prosecution.

**Q.** If those safeguards are there, do you think that there will be no danger in giving the right of complaint to the public at large?

**A.** Yes. Any person coming forward with frivolous prosecutions will be punished.

**Q.** You have suggested the trial of marital cases in camera. Does not the same reason apply to the cases in extra-marital relations also?

**A.** I have conducted such cases and I do not think that they have any bad effect. But I have no objection if the enquiry is in camera.

**Q.** With reference to the law of the age of marriage, while it may not be acceptable to the orthodox community, would you agree that legislation fixing the age of marriage is certainly a more effective means of preventing the evil?

**A.** Yes.

**Q.** You suggest 14 as the age of marriage. What penalty would you have for the infringement of the law?

**A.** I would have fine only.

**Q.** Who are the parties whom you would fine?

**A.** The people who brought about the marriage, namely the parents and the officiating priest.

**Q.** Do you think that there is anything improper in the present Legislative Councils and Assembly taking up this question?

**A.** I have no objection. There is no other agency which has got the sanction behind it.

**Q.** Do you think that the members in these bodies are our representatives only for political purposes?

**A.** If they can represent our political interests, then they can also speak on behalf of the life and health of the people.

**Mr. Mitra:** At what age do Brahmin girls in this part of the presidency marry?

**A.** About 11 to 13.

**Q.** Do you know that Hindu Shastras enjoin marriage of girls between 8 and 10?

**A.** In the Vedas there is no such restriction; but in the Smritis we have got such restriction. But I may point out that the Smritis in their present form are post-Greek. There are many things in Kautilya's Artha Sastra which are at variance with the Smritis, and the laws of Manu in their present form are later than Kautilya. So most of the practices have been crystallised by tradition during the past two thousand years.

**Q.** The orthodox people quote scriptures to show that marriages should be performed between the ages of 8 and 10. So do you think that the orthodox people themselves do not follow their own scriptures?

**A.** They could not follow them owing to economic conditions.

**Q.** Do you think there will be social ostracism if marriages are not performed according to the Sastras?

**A.** At that rate the whole community will have to be ex-communicated.

**Q.** You say that amongst higher castes the age of puberty is 13 or 14, and you also say that this is specially so in people amongst whom early marriage is in vogue. Do you think that it is because of this early marriage that puberty is earlier amongst those classes?

**A.** The mind always reacts upon the body, and the idea that the girl should be married before puberty acts upon the bodily functions of the girl and acts as stimulant and hastens puberty.

**Q.** You have suggested that infringements of the marriage law should be punished with fine only. Do you not think that it will be a hardship on the poor people only?

**A.** Poor people will be afraid of the law, and will not break it for fear of punishment. At the same time my point is that if the age of marriage is fixed at 14, the present system of the parents of the boys asking for big dowries will vanish.

**Mr. Kadri:** I think you realise that it is very difficult to get the parties in cases of marital relations to go to Court. Would you therefore penalise the Garbadhan ceremony instead of fixing an Age of Consent?

**A.** If you fix the Age of Consent at 16, it means that the ceremony is penalised. It is not the ceremony but the act that is criminal.

**Q.** Supposing the boy is under 18 years of age, how would you deal out punishment in his case?

**A.** You would have to deal with him as you would do in the case of other offences committed by him, for instance murder. The law is the same for all criminals. We would have to provide the maximum sentence and the Magistrate would use his commonsense and deal out punishment according to the seriousness of the offence.

**Q.** Would you hold the parents of the boy responsible?

**A.** If they have assisted in the commission of the offence they would come in as abettors.

*Q.* Is it not a fact that in Indian society as it is now, it is the parents who are responsible for bringing about the union?

*A.* It is a question of fact and would be dealt with according to the merits of the individual cases.

*Q.* You say that prosecution in these cases should not be launched without the previous sanction of the District Magistrate. It has been pointed out by some witnesses that it will mean considerable delay and the evidence might disappear in the mean time. What do you say to that?

*A.* I have known cases where the trial lasted for 3 or 4 years. But these are rare cases. Why should this particular difficulty be considered when you are enacting a law for all cases generally; we do not take into consideration exceptional cases when we are framing general rules.

*Q.* In Bombay a suggestion was made by an eminent lawyer that we might have a Director of Public Prosecutions just as we have the Advocate General for civil matters and he might look into the evidence available and recommend fit cases for prosecution. Do you agree?

*A.* If a separate establishment can be created for that purpose, it is well and good. But I think you can try the law as it is for some time, and then see if such a separate establishment is necessary.

*Q.* How do you say that the Smritis are post-Greek?

*A.* In Manu Smriti the word *Yavanas* occurs. In Asoka's edicts also the same word *Yavanas* occurs in the same juxtaposition with some other words which are found in Manu also, and they apply to the Greeks. We can therefore presume that by *Yavanas* Manu meant the Greeks; we have internal evidence to show that the Smritis were later than the Sutras; and we can fix the age of Manu and the age of the Smritis. And from a historical point we find that these Smritis have been recording the changes in the customs of the people.

*Q.* What is the result of the Greek influence on our marriage laws?

*A.* From 300 B.C. to 300 A.D. we had so many disturbing influences upon Hindu society. The Greeks, the Scythians and others who came to India became Hinduised. They did not observe the customs, and there was danger to the Hindu society of its customs deteriorating. There was a sort of renaissance between 300 and 400 A.D. about the Gupta Era; and then these Aryan customs were fixed in the Smritis.

*Q.* Do you base all these statements on your personal study?

*A.* Yes.

*Q.* Have you got any other authorities in support of your statement?

*A.* Dr. Bhandarkar of Bombay wrote a series of articles about the subject; and Dr. Bühler has written a book called the "Introduction to the Code of Manu".

*Mr. Kanhaiya Lal:* How did the Greek influence affect the marriage customs of the Hindus? During the Vedic period there were no early marriages; during the Sutra period also there were no early marriages; but in the later Sutra Granthas there is a reference to early marriages. Can you explain how this gradual transformation took place?

*A.* Kautilya's Arthashastra was written about 300 B.C. and in that book he records things as they happened, and the Smritis only lay down regulations.

*Q.* But Kautilya's Arthashastra also lays down regulations for good conduct.

*A.* Kautilya's book has been written from an administrator's point of view, whereas the Smritis have been written from a different point of view.

*Q.* In one place he says that a girl is fit for Vyavahar at the age of 12, that is, she is fit for ordinary dealings which include domestic dealings.

*A.* I do not mean to say that you should take the opinion of Kautilya on these matters; I only pointed out that he recorded things as they existed in his time.

**Written Statement, dated the 9th August 1928, of Mr. K. RAMA  
 AYYANGAR AVL., B.A., B.L., Advocate, Madura.**

1. Dissatisfaction with the state of the law as contained in Sections 375 and 376, Indian Penal Code, does exist in Southern India, so far as punishment for the offences within marital relationship is enacted. The fact that the existence of the present provision is ignored, is sufficient indication of dissatisfaction. It is easy to argue that there is no dissatisfaction. But it really there is no effect by the change in the law the dissatisfaction has to be inferred. No relation of a husband or a wife will be prepared to expose offences under these sections unless there is strained feeling owing to other causes. Nobody likes inquisitorial proceedings in marital relationship nor does it conduce to making society morally high.

2. (i) (a) Retaining the law of the Age of Consent as it is, I feel, cannot be justified. In the case of non-marital relationship, making an advance in the present law is highly beneficial. There is no reason why the age should be limited to 14 when the offence is committed in non-marital circles. It is proper to put it at 16 or even 18, in such cases. There can be no doubt that the progeny of an uncontaminated woman of higher age will be much better, for all purposes than when a lower age is fixed for permitting intercourse not to speak of the capacity to give proper consent, being better, if the higher limit is fixed. Any argument that at that rate the age may be put at any higher figure cannot be sustained as the fixing of the age at 16 or 18 will in most cases be only within a few months, or 2 years from the time of attaining puberty.

(b) The present law of the Age of Consent is not justifiable in marital relationship cited, while every step should be taken to induce later consummation of marriages by other means, the legislature cannot, by creating offences in marital circles, improve society or its moral. The law did before the present amendment, fix the age of 12 for all purposes in marital and non-marital circles. The same was practically a dead letter in marital circles, nobody taking note of the age of a wife, for consummation of marriage. The same is the position now.

(ii) Making an advance in the present law outside marital relationship is quite justifiable as mentioned already. In the case of marital relationship making an advance may be justified in all cases in which social customs and Shastric injunctions do not hinder marriage after puberty. In those cases 14 or even 15 may be the age, for the purposes of the offence. I should not agree to put the age higher in the present condition of society in Southern India. Gradually there may be anxiety to further advance the age when people enjoy the benefit of the present advance. In the case of sections of the people where social customs, or *bond fide* belief in Shastric injunctions, prohibit post-puberty marriage the proper course is to leave marital relationship unaffected. There need be no fear that this will any way conduce to spoil society. Such sections will soon work from within to get over the bondage imposed by social customs and other injunctions, when as a result of the enactment of the law on other communities the beneficial effects are realised. The Brahmins who are the most affected class know the evils, much more than any other community and are already straining every nerve to get over the customs and injunctions on one pretext or another, such as want of suitable matches, the interpretation of the injunctions suitably to their condition, social reform and various other means. Any community imitating the Brahmins in this respect for the mere pleasure of aping them should be discouraged by statutory and other means.

3. Crimes of seduction are common in this part of the country not of rape. I don't think the amendment of the law made in 1925 has had any effect in preventing or reducing cases of rape outside marital state, or the improper seduction of girls for immoral purposes. It is not easy to propose measures to make the law effective. I know of a case of seduction which happened within the last one week. The parents ran up nearly 70 miles and managed

to quietly take back the girl concerned to avoid publicity as the girl was unmarried, and they would not risk spoiling the later life of the girl. To make the law effective it should be possible for the sufferers to get immediate relief, when cases are brought to the notice of the authorities. Proselytisation and emigration play important part in seduction and it is found easy for culprits to take refuge under mission agents or labour departments when other methods fail. In all cases of unmarried women being seduced any Magistrate or an officer of a Sub-Inspector's rank of the Police should be enjoined immediately to help the party complaining and restore the girl to their parents or proper guardian, without allowing judicial enquiry on the question of age. The question whether a girl is 18 or no should be left to be determined by Civil Court. Immediate restoration should be always made whoever may be the party seducing.

4. (i--iii) I am not prepared to say that the amendment of 1925 has had any effect in protecting married girls. Public opinion in that direction has been stimulated even before the amendment and the effect of such stimulation are being felt from year to year but imperceptibly. There is no doubt that, except in the case of poor people, whose circumstances require submission to earlier consummation, people generally are not for consummation before 13. But the knowledge that the law has been altered in this direction has not been driven home to the people and nobody is interested in bringing delinquents to book. No sensation has been caused to make the law felt. In these circumstances the steps to be taken to make the law effective are very difficult to postulate. In my view a regular pressure put upon the officer concerned to keep birth and death registers scrutinised every year, so as to be sure of the age of the children in the village at any particular period and the introduction of a system of registry for consummation of marriages, with a duty cast upon the parents or the parties (husband and wife) to report such consummation with the ages of parties concerned, and the enactment of law for slight punishment in case of non-report, would considerably make the law effective. But it wants great caution. There should be officers of the rank of Revenue Inspector to check their registers periodically and help the report of the consummation of marriages. The birth registers should be kept continuous for each village and re-written once in 3 years each report showing the deaths and removals without mistake. This can be done only by properly educating the village officers. The details will have to be worked into with caution.

5. In Southern India usually Brahmin girls attain puberty earlier. The same is the case with other classes that take pride in adopting Brahmin customs and manners. In the case of other castes and communities the ordinary age for attainment of puberty is 15 and above. Amongst the dancing girl classes puberty is often attained much earlier and mostly because of the environments.

6. (i) As far as I know, cohabitation is not common in Southern India before puberty. I may say it is almost *nil*.

(ii) It is common amongst the Brahmin classes soon after puberty, and in some Sudra classes where the husband who is often times the maternal uncle or the maternal uncle's son, is in touch with the girl to be married, and amongst the dancing girl classes, who practically bring up the children for a life of shame.

(iii) In rare cases cohabitation before 13 does take place, but without any idea of the question of the age of the girl at the time of cohabitation. None of these cases come to Court except where there is enmity at the bottom or where there is strained relationship between the husband and the wife's family. In cases of seduction outside marital relationship cases do go to Court where the seducer persists in keeping the girl away. As I pointed out already sometimes the prosecution is sought to be frustrated by influential agencies, if conversion or emigration is agreed to.

7. I think religious injunction is rarely now the cause of the early consummation of marriage, but in rare cases in very orthodox families it is yet

the cause. The Shastraic authority is an injunction that within 16 days of the attainment of puberty of a girl, the consummation must be made. There is no outward penalty prescribed for the breach. But the injunction is interpreted to mean that the spiritual qualification of the women for Grahasta right is spoiled by allowing the consummation to go beyond. As I said this view is fast losing ground except in very rare cases.

8. Garbhadan is performed in Southern India amongst Brahmins. It is done both during marriage on the 5th day and at the time of consummation of marriage. Garbhadan at the time of consummation always after puberty. In Southern India, unlike what I have heard in the North, no married girl before consummation is allowed freely to reside with the husband. In the cases of other classes I do not know of any such ceremonies. The marriage is performed generally after puberty and consummation takes place on the night of the marriage. I consider that attainment of puberty may be indication of physical maturity to justify consummation according to the circumstances of each case. It is always proper to allow a period of, say, one or two years after puberty for consummation. But in some cases when there is unusual delay in the attainment of puberty there is also physical maturity. I consider one year or two after puberty to be enough to justify such consummation, but to preserve the high moral standard of the Indian home I would begin with an one year's period after puberty as sufficient.

10. A girl in India is mostly guided by her environments even at the age of 12. She may be able to give an intelligent consent. But nobody can say that even if the consent is given with a due realisation of the consequences that alone should be ground for depending upon that consent. According to the build and the hereditary acquisition of passion and powers even an intelligent consent may not lead to the best results. This may be so even up to the 18th age. All that can be done is to keep a fair amount of check.

11. I have come across many cases of cohabitation after puberty but none before. I can mention the case of a girl, who practically became a physical wreck because of such consummation after puberty before the 13th age. Another case in which consummation even after the 15th age, in weak health, has worked havoc. In the latter case the child is healthy and well developed, but the mother has practically lost her health. I can bring to my mind tens of cases of the kind from my town and adjoining parts.

12. I do not consider early consummation and early maturity have been responsible for high maternal and infantile mortality, or for any other results affecting the intellectual or physical progress. It is certainly responsible to a very very small extent. Habits and customs, and living in unhealthy surroundings, poverty, want of proper and sufficient food, and want of proper exercise and play all combine to produce the result. I know that the children of mothers whose consummation of marriage was before the 13th age have been very healthy, strong and intelligent in spite of the mother having given birth to more than 13 children.

13. I have answered this already. The law of 1925 has not done anything to develop public opinion. Such opinion has been there already and has mostly been amongst the educated classes. The customs and habits in all classes and communities other than Brahmins have not been against any development of public opinion in favour of extension of the Age of Consent.

14. Except in the dancing girl classes women are not in favour of early consummation. There are ignorant people who are indifferent about the age but such women steadily are decreasing in numbers.

15. There have been always difficulties in determining age. The real cause of the offences under the sections being effective is difficult of determining age. The police, the Magistracy, the relations, and other parties inimical make the sections useless. In important cases much corruption takes place resulting in failure of justice often. Even where real justice is rendered the belief that corruption has been at the bottom makes the effect of the sections practically nil. As I have pointed out already the measures to be adopted to minimise these difficulties will have to be considered by a strong

committee who must examine the details with care and caution. The remedy in my view may be successful if the registry of consummation of marriages that I propose and constant watch to identifying living persons with death and birth registers is carefully maintained. Other constructive methods can also be suggested. The parents may be made to give information to some Registrar or similar officer supported by affidavit or otherwise as to the age of the girl and date of birth, etc. But this will all involve petty harassment to the ignorant folks. So the duty must be taken up by the state and officers of the state must be enjoined to help the poor and the ignorant to give details. It wants careful examination.

16. I have discussed this point already. The raising of the age to 14 from 13 or from 12 would not make any difference. The root cause of the evil is not in any desire to frustrate the law. It is in indifference and ignorance. The state must take the duty to develop public opinion and make the public feel its importance.

17. Yes, I would suggest the ordinary punishment for rape must govern all extra-marital cases. In the case of marital offences I would at best treat them as minor offences punishable with fine or at the most with a month's simple imprisonment—only in cases of extraordinary turpitude.

18. I would make a difference: extra-marital offences should only take the ordinary course. Within married relationship I would have the complaint made only by the father or husband and allow permission to the Court to allow withdrawals, only 1st Class Magistrates being allowed to have jurisdiction over such cases.

19. I have already discussed this question. With the existing official establishment slight modification in the nature of the registers to be maintained and the constant supervision over it will enable people to prevent collusion and stop prosecution. Attempt to enact law without giving all facilities to the ignorant and poor people in his vast country will only result in serious consequences.

20. I am sure that penal legislation will not help the production of effective result in marital cases. The legislation fixing the minimum age for marriage is better. I am dead against the law enforcing the minimum age for marriage against the religious beliefs (founded or unfounded) prevalent in any particular class or community. They must always be excluded from the scope of the enactment. The fact that a few social reformers and public workers who have ideal notions of advanced society and who are consequently more in touch with the legislature than other more serious and responsible men should not weigh with the Government to allow interference with the fundamental structure of the Indian society. The ideal Brahmin is only the example for others to follow as enunciated by customs and societies. The fall of the Brahmin from this ideal ought not to be used to spoil the structure of the Hindu Society based on the utter futility of material prosperity and the higher aim of life and human happiness. Thousands and tens of thousands of people must grope in the dark. The definition of civilisation is fast changing according to the current notions in the world. Countries where material advancement were considered the best ends of lives, have come to grief, and begin to pause to think of the better world. Why should India, simply because it is dominated by political and social raddists and a foreign Government which can only partially realise the importance of its society's structure spoil the ideal, which I am sure is going to be the ideal of the world in every continent in future. The public opinion in this country, I feel, is strongly as suggested above.

21. I would condemn Government not using penal law to secure the object in view, in the case of non-marital relationship and in the case of sections and communities who are not under any injunctions or supposed injunction to marry before puberty. I would condemn similarly the interference of the legislature with the society where there is real progress, and where social propaganda is not wanting, but where there is real conflict of opinion amongst the educated classes because of a priori presumptions regarding the

effect of social structure, by interference with injunctions considered to be inviolable or the importance to preserve the ideal of life, as enunciated by the Eastern Shastras and Rishies.

The whole of the questionnaire proceeds on the assumption that males alone are at fault. Those that agitate for advancing the Age of Consent must realise that both sexes deserve to be treated alike and be protected, the more so, when the Age of Consent is raised.

### Oral Evidence of Mr. K. RAMA AIYANGAR, B.A., B.L., High Court Yakil, Madura.

(Madura, 29th November 1928.)

(Rai Bahadur Pandit Kanhaiya Lal presided.)

*Mr. Kanhaiya Lal:* Are you an Advocate of the High Court?

A. Yes.

*Q.* How long have you been practising?

A. 32 years.

*Q.* Have you been connected with any social or public movements in the country?

A. I have been connected with almost all public movements.

*Q.* For how many years were you a member of the Legislative Assembly?

A. For about 3½ years.

*Q.* And of the Madras Legislative Council?

A. For about 6 or 7 years.

*Q.* Are you connected with any religious endowment?

A. I am just now in charge of a religious endowment here. I am one of the members of the Rameshwaram Devasthan Committee.

*Q.* Are there any communities in this Presidency among whom early marriage is practised?

A. The only community that I know of is the Brahmin community. The other communities imitate Brahmins but they are not in any way bound.

*Q.* Which are those?

A. The Vaishyas of these parts and the Sourashtras and Nottukottai Chetties.

*Q.* What is the usual age of marriage among the Brahmins?

A. Between 10 and 12. There are rare cases in which they marry earlier lest they lose a suitable match and for other circumstances in the family.

*Q.* But is there a tendency to have a more advanced age of marriage?

A. Yes.

*Q.* Even among the Brahmins?

A. There is. The Brahmins are the persons who are on one side working with the most advanced views and on the other side adhering after considerable thought and experience to the old customs. Both sides are worked by the Brahmins.

*Q.* But is there a movement for advance even among the Brahmins?

A. The Brahmins as I say are most working in that direction even at the risk of much social odium.

*Q.* And are attempts being made to have marriages even after puberty?

A. There are very few cases in the South among the Brahmins where post-puberty marriage takes place. It is only in exceptional cases and when they do happen puberty is often concealed. There are a few advanced social reformers who have openly married after puberty.



**Q.** What is the usual age of marriage among the Nottikottai Chetties?

**A.** Only after puberty, but in very rich families they take pleasure in marrying girls even earlier than 12 or so. But you make take it that the Nottikottai Chetties as a rule are not in favour of early marriage.

**Q.** What about the Shourashttras?

**A.** They generally marry early.

**Q.** What is the usual age?

**A.** Between 10 and 12 and in some cases they marry even earlier. That is because they style themselves as Sourashttras Brahmans and take pride in aping the Brahmans.

**Q.** Among the non-Brahmins what is the usual age?

**A.** About 16 or so.

**Q.** When is the marriage consummated among Brahmans?

**A.** Consummation takes place generally at 14 or 15.

**Q.** How much time after puberty?

**A.** That is a question of each individual case.

**Q.** But generally speaking?

**A.** Generally they allow 6 months to one year to elapse.

**Q.** And is the case the same among these Sourashttras and Chetties?

**A.** They allow about 6 months or a year and sometimes more also.

**Q.** Have you noticed any evil effects of early consummation upon mothers or children?

**A.** I am of opinion that it is made much of but actually I don't think that there is much evil effect on account of that one reason. Early consummation is ordinarily between 14 and 15 and I don't think it has very much affected so far. I may tell you of my own case. I was born fifth from my mother. The first child was born in her 13th year and I and my brothers have been very very strong and healthy and we have never felt that that has been any reason of weakness.

**Q.** She had completed her 13th year?

**A.** In the 13th year she delivered. She had completed 13 and was in the 14th year. She gave birth to 16 children. She was weak but the children were all strong.

**Q.** Are all the 16 alive?

**A.** 6 are alive.

**Q.** Is the first child alive?

**A.** No. He died about 3 years after birth.

**Q.** And the second child?

**A.** He also died immediately after birth.

**Q.** Of what disease?

**A.** No disease, within one month or so he died.

**Q.** You have referred to two cases in answer to question No. 11. You refer to a case in which consummation took place before 13 and the girl became a physical wreck. When did this occur?

**A.** The girl died 3 years back.

**Q.** When was she married? At what age?

**A.** 11 or 12.

**Q.** And when was the marriage consummated?

**A.** After puberty.

**Q.** When did she give birth to the child?

**A.** In the 13th year. She could not bear the strain of consummation and became a physical wreck in consequence.

**Q.** What was the trouble she died of?

**A.** Diarrhoea. That was the main ailment.

**Q.** You call her a physical wreck.

**A.** That is due to diarrhoea.

**Q.** And you attribute that diarrhoea to the general weakening of the health in consequence of the consummation having taken place early.

**A.** Yes.

**Q.** You mention another case in which consummation took place after the 15th year. When did this happen?

**A.** The child is now 6 months or so.

**Q.** At what age was she married?

**A.** She was married in her 12th year.

**Q.** When was the marriage consummated?

**A.** In the 15th year.

**Q.** When did she give birth to the child?

**A.** In the course of a year.

**Q.** Is she alive?

**A.** She is alive, but in poor health.

**Q.** What about the child?

**A.** The child is healthy, perfectly strong but the mother is weak, she has not yet regained her health. She is now improving.

**Q.** You also know tens of other cases in your town and the adjoining parts in which evil results have followed on account of early consummation both to the mother and the progeny?

**A.** The cases are such in which the girl got weakened after consummation, but there have been hundreds of other cases in which it has been all right.

**Q.** Don't you think in the majority of cases where girls have been subjected to early consummation at 12, 13 or 14 the girls have suffered in health?

**A.** I don't think so. All that I can say is that a few cases have occurred.

**Q.** You have said tens of cases of the kind you know in your town and the adjoining parts, that means a fairly large percentage. Is it not?

**A.** The number of consummations between 12 and 15 is legion.

**Q.** Can you give the percentage of cases in which evil results have followed?

**A.** I will put it at 10 per cent.

**Q.** At what age?

**A.** Between 12 and 14.

**Q.** Do you think that in these cases if consummation had been delayed stronger progeny would have been the result and the health of the girl-mothers would not have been devitalised?

**A.** I can't exactly say so, but it is better in such cases to put off consummation.

**Q.** Till what age?

**A.** One year after puberty.

**Q.** You are aware of the dictum of Ayurvedic-writers who say that a girl is not fit for maternity till 16. Sushrut says that if there is a child born before that age the child will not survive and if he survives he will be short-lived or weakling. That is also the opinion of Ashtangahrdaya. What do you say to that?

**A.** I think they refer to some other age when the present circumstances did not exist.

**Q.** What is the difference?

**A.** The same conditions hold good among the working classes even to-day. They attain puberty late.

**Q.** But what are the different conditions that have necessitated a different view being propagated with regard to others also?

**A.** I have been trying to observe things keenly. In the case of Sudras here, who are about 60 or 70 per cent. of the Madura population, they are generally seen working in the fields or even in the backyard near the house. They attain the age not before 16. But in the cities the puberty is attained earlier. I have no doubt that in the days when those Ayurvedic writers wrote there were no stimulants taken and the age of puberty was therefore late. These stimulants are now-a-days part of the food. Till my 22nd year I have been living on cold rice. But these days children begin to live on coffee from the very beginning, and they are not half as strong.

**Q.** Do you mean chillies and coffee bring about early puberty?

**A.** Chillies are necessary in the South. I mean all this tea and toast are not health-giving at all.

*Mrs. Nehru:* Would you include bread and butter also in that?

**A.** Bread alone is alright but with tea it is hopeless.

*Chairman:* May I know whether the orthodox class are addicted to toast, bread and butter?

**A.** Certainly not.

**Q.** You think that coffee and tea are stimulants which weaken the nerves and hasten puberty. But when the orthodox people are not using these things there is nothing to stimulate the nerves and the girls would attain puberty at the normal period, that is to say, 15.

**A.** My house before me was a very orthodox house and generally no girl attained puberty before 15.

**Q.** Is it your recommendation that we should go back to orthodoxy?

**A.** My recommendation is that you should not touch orthodoxy in any way. Orthodoxy in the end will gain and it will stand beyond all attempts at pulling it down. There is no reason why should the ideal be rooted out, if it is not followed in practice.

**Q.** It has been pointed out to us that between the ages of 10 and 15 and 15 and 20 more girls die than boys. What would you attribute this to?

**A.** I would attribute this to social environments which are not good for girls.

**Q.** Are they good for boys?

**A.** Boys are left free. They are not brought under discipline and control.

**Q.** Would you not attribute this partly to maternity at tender age?

**A.** My experience is that given good environments very few cases of death on account of early maternity occur. The environments in which the girls are placed are such that they lose all the freedom whatever little they have. The freedom given to girls is much less as compared with boys and it is likely that such results will happen.

**Q.** It has also been pointed out that there is much higher infantile mortality among Brahmins and Sourashtras in Madura than among the other castes, the actual figure being 260 among the Sourashtras and 220 among the Brahmins while it is only 170 among the Muhammadans and 120 among the Christians per thousand births. Can you account for this high mortality among the Brahmins and Sourashtras in Madura?

**A.** My last answer covers that. The environments in which the girls are placed are so bad.

**Q.** I want to know what is the cause of this high infantile mortality? Infants under one year die mostly.

A. Confinements are not generally properly looked after. We have been trying to find out some means of helping these children and we have been quite successful.

Q. Is such help available only to non-Brahmins and Mohampadans?

A. Non-Brahmins is a caste of workers who generally marry late and in their case girls become mothers much later. They will be seen working even in the 9th month of pregnancy. They will be working in the fields and consequently the delivery is easy. In the case of the Brahmins, on the other hand, all work is stopped at the 3rd or 4th month and they are kept confined and they are not given assistance as is possible under the present circumstances. They are not placed in sanitary conditions.

Q. And among the Sourashtras?

A. It is worse. If you once go and see the conditions for yourself you will be completely satisfied with my answer.

Q. There is nothing to prevent the Brahmins and Sourashtras from having proper treatment.

A. They do not, on account of ignorance. They have prejudice against medicine. They talk of old maxims.

Q. As regards Muhammadans?

A. They are absolutely *goshia*. Inside their houses they are greater mistresses than any ladies you can think of. Brahmin girls remain in their houses. They have no proper medical aid.

Q. Does that not apply to Muhammadans?

A. It does not, because their environments are such that they have absolute freedom. The Brahmins will avoid brandy as much as possible while others have no objection to it.

Q. As medicine, anybody can take brandy?

• A. The very orthodox have objection.

Q. So far as treatment at birth is concerned do they take greater precaution and have proper nursing and proper medical treatment more than the Brahmins do?

A. That is my view.

Q. Don't you think that early consummation and early maternity may be one of the causes of large infantile mortality among Brahmins and Sourashtras?

A. You can't say, no.

Q. What age would you recommend for marriage if there is to be legislation?

A. For this purpose I will divide the people into two classes. Leave the Brahmins aside. For others you can put a fairly high age after puberty.

Q. You mean 15 or 16.

A. I have no objection to 18 even in the case of the other people.

Q. We are looking at it from an all-India standpoint. We want your advice as to what should be the age of marriage for the whole of India.

A. It is wrong for you to bring the whole of India under one legislation on a point like this where there is room for your not giving full effect to this. You ought not to disturb the general law. The Brahmin class is a class which has got the most advanced social reformers and it is a class which has got the most conservative people also. In both cases capacity is not wanting. It is a class which properly considered is meant to exist not for itself but for others. Don't take the present conditions into account, they have to be forgotten altogether. I am talking of the ideal Brahmin class. The Brahmin class was meant to protect the country and the country's interests. If some of us indulge in vice and have all sorts of yearnings they are bound to misguide the people. The ideal Brahmin class is made for the protection of others and as a class they must be preserved like the monuments under the Ancient Monuments Act. The ideal is certainly good. There is a higher aim of life than material prosperity.

Q. Don't you want the law therefore?

A. It is not a question of not wanting it. You should not interfere with those that want to preserve the ideal.

Q. Even the Brahmins are divided. There are some who say we must have a law and there are others who are against it.

A. Will you take a plebiscite?

Q. We are not concerned with that.

A. It is a small vocal section that would be for it, the rest won't be in favour of it. If the ideal is good, it does not affect the society, it does not affect the advancement of the country, do not interfere with that.

Q. What age would you recommend for Brahmins?

A. After 10 and before 12. I would fix 10 as the minimum age of marriage.

Q. Don't you think it increases the number of possible widows in the country?

A. You must then allow divorce and remarriage.

Q. Would you rather have a law of divorce and re-marriage?

A. If you are going into the question of child-widows think of that legislation and not this.

Q. But what would you like?

A. Neither.

Q. Are you for fixing the minimum age of marriage at that even at the risk of increasing widowhood?

A. I am not for fixing any age of marriage at all for Brahmins. That most intelligent community may be left to work its way itself. You need not take care of that.

Q. If the Legislature decides to fix an age for consummation higher than the present age, what would you recommend?

A. One year after puberty would be my recommendation.

Q. What age would you fix?

A. I would leave it as it is. I was, when I was a member of the Legislative Assembly, on a Committee also and I opposed it.

Q. Would you rather annul the present law?

A. Leave it as it is. You have not improved the position except that you have added some paper to the Statute Book.

Q. What age would you recommend for extra-marital cases?

A. 16 or even 18.

Q. Do you think you will be able to control the devdassies, women in brothels and other fallen women?

A. They are a class that most require legislation.

Q. In their interest will you recommend 16 or 18?

A. 16 will be for the time being. I will increase it later.

Mr. Kadri: I suppose you are in favour of the present law.

A. I want the Brahmin community to be exempted.

Q. So far as penal legislation is concerned do you think it is safe to exempt any particular community?

A. It is absolutely necessary.

Q. Then you refer to registration of consummation.

A. That it for the general masses.

Q. From that also would you exclude the Brahmins?

A. Certainly.

Q. Do you suggest registration of consummation in order to make the law effective?

A. This particular question wanted me to make constructive proposals for enforcing the law and I made that suggestion.

Q. May I take it these constructive proposals of yours would exclude the Brahmins?

A. Yes.

Q. You think that the law has been ineffective and you think registration of consummation would make it effective.

A. It is ineffective. Nobody can fix upon the age of the girl in a village. The law is a dead letter.

Q. We have been told it has become effective in four ways. Firstly it has its educative effect. When people know that consummation of marriage below a certain age is an offence they will learn to respect the law. We are credited with being law-abiding people.

A. Will learn or are learning?

Q. Are learning. The law on the Statute Book has its educative value. Secondly people are realizing the consequences of early consummation. In the case of certain people where the father of the bride is an educated man and is anxious to see that the daughter does not suffer from early consummation and early motherhood, the law will be a weapon in his hands. Where the husbands' parents become impatient he can say that the law is there and he cannot help. Thirdly, there have been cases in which the breach of the law has been brought to the notice of the court. The delinquents have been punished. Fourthly, there has been a general rise in the outlook of society. The conditions in India are such that legislation has to precede public opinion.

A. You take the law of 1925 into consideration and talk of the conditions after that or are you talking of the conditions before that?

Q. Even after the amendment of 1925.

A. I will take up your points one by one. You talk of educative value. Very few people except the lawyers know that there is a law. It is almost moonshine to say that it has affected any one person except the lawyers. Even before the amendment the social reformers at personal sacrifices sometimes have been trying to educate public opinion. The educative value of the amendment of 1925 has been nil. So far as the question of the father's wishes go, I have not known of a single case either among the Brahmins or the non-Brahmins arising in which there has been a clear difference of opinion and the husband's parents have forcibly taken the girl for consummation. There may be extraordinary cases owing to some misunderstanding. I do not know of any father who has used this law for the purpose of preventing the early consummation of the daughter. Then about the delinquents punished. I don't know whether there have been any cases. You have been travelling far and wide and you know I don't think there have been any cases.

Q. I myself have tried a case in Dulia in which a man of 25 had intercourse with a girl of 11. The man was sentenced to imprisonment for two years. How many cases there have been after the amendment of 1925?

A. There have been cases under the present law also.

Mr. Mudaliyar: According to the report of the Inspector General of Police there were three cases of the violation of the law of 1925.

A. Was the guilt proved in any case?

Q. In one case it was. In the previous year there were four cases.

A. Has there been any case below 12?

Q. No case has occurred below 12.

Mr. Kadri: It is clear there have been cases.

A. Anyhow the number is so very little that so far as my position goes it need not make much difference.

Q. If the delinquents have been Brahmins?

A. The proper thing is to make all Brahmins, non-Brahmins but you can't interfere with the whole structure like that by law.

Chairman: Do you regard the injunction about marriage before puberty recommendatory or mandatory?

A. It is mandatory. But the force of circumstances have made the people find some sort of excuse for its breach.

Q. Is it now generally regarded as recommendatory?

A. They break it. Nobody punishes the people and nobody much cares for it because the only penalty is that the girl is not supposed to be fit for certain *karmas*.

Mr. Kadri: You would advocate 10 in the case of Brahmins, if at all you would fix any age. The girl according to the religious beliefs ceases to be a *Kanya* after 10 and there is no merit to the father, if the girl is married after 10. How would you meet that objection? You still give them an opportunity to complain, and if you give them an opportunity to complain why not sufficiently protect the girl?

A. You give the opportunity to such of those who are inclined to ask for it. Others that are already willing, will have an opportunity to extend it to 12 and there is nobody to obstruct them if they go up to 15 or 18.

Q. You have said cases of seduction are common in this part. Among what class of people do these cases occur?

A. Among three classes. The emigration depot people is one of the classes. Then there is a class of people who seduce for the purpose of conversion and the third class is that where seduction takes place for actual lust.

Q. How many cases take place in a year?

A. I can't give statistics, but many cases occur. So many cases occur in Tinnevely.

Q. What is the change that you are suggesting? Even now it is an offence if the girl is taken away for an immoral purpose from the lawful guardianship till she is 18.

A. I want that the girl must be immediately restored to the parents or the proper guardians without making any enquiry in regard to age.

Q. You mention a case of seduction that happened within the last one week. What was the age of the girl?

A. About 15.

Q. What caste?

A. Carpenter.

Q. You say the birth registers should be kept continuous for each village and re-written once in 3 years. What do you mean by re-writing the register?

A. At that time the names can be entered and those that have died can be omitted. That would be useful for the purposes of census also.

Q. But for the purpose of name you can make it obligatory on the parents to submit a supplementary report within some days when the name has been given. Within two weeks the name will be given.

A. There is no rule. It may take years for the name to be fixed. Within three years the *nam-karan* ceremony will be performed.

Q. In answer to question No. 17 you suggest that the punishment in marital cases should only be fine or at the most one month's simple imprisonment. Do you realise that there may be cases under this category where the girl may be only 10 and she may become a complete wreck?

A. Would it not come under any other offence of the Penal Code? It can be punished under the "grievous hurt" section.

Q. In answer to question No. 20 you say, the legislation fixing the minimum age for marriage is better. Further you say, I am dead against the law enforcing the minimum age of marriage against the religious beliefs (founded or unfounded) prevalent in any particular class or community.

What exactly do you mean? Do you want a law of marriage at all? Do you want the Brahmin community to be exempted from the operation of the law?

A. The Brahmin society is the most educated and it takes to social reform as one of its main aims also. It is the society that is most working in that direction. It is a society that has got a great aim which is equal good for all. The ideal must be preserved. When they are married early the couple begin to know the feelings of each other and real love is created. The aim is service and preparation for service. This ideal of service has to be kept at beck and call. It is not the material advancement that has always to be cared for. There is a higher aim in life.

Mr. Shah Nawaz: I want to know how far the pre-puberty marriages will help in the creation and preservation of that ideal of service to the country that you speak of.

A. The idea is that at an early age the girl begins to look upon the husband as her part and parcel with whom she has to live throughout life. If you just put the age at 14, the very aim will be lost. Mutual love is created. Among the Hindu society there is no feeling that the wife is inferior to the husband, they are to be together. The ideal is spiritual benefit both to themselves and others. They are not concerning themselves with those that are mainly drifting towards material prosperity. They exist for others.

Mr. Shah Nawaz: Do you mean to say that if boys and girls are married after they attain puberty, they will be carried away by passion?

A. I don't say so. It actually won't create that impression of relationship between the husband and wife which is sought to be upheld by those traditions.

Q. You say that you will be prepared to legislate for others excepting the Brahmins. Don't you think that the Brahmins being the highest caste, are exerting influence over the non-Brahmins and other castes?

A. Absolutely not.

Q. The Brahmins being the highest class and priestly class, will they not be exerting their influence and showing their example whether good or bad to others?

A. No.

Q. Would not the other classes think that Brahmins being the highest class and the priestly class, they might follow their customs and examples?

A. I say there are some people who ape the Brahmins in this matter. Such people must be prevented from following the Brahmins, because there are no legal or other conventional usages which bind them to such an early age.

Q. Do you mean to say that the religious injunction applies only to Brahmins and not to others?

A. Yes.

Q. Does it not apply to Vaishyas?

A. No.

Q. Does it not apply to Kshatriyas?

A. No. It applies only to Brahmins.

Q. Is it not a fact that *Sourashtra Brahmins* are imitating the customs of Brahmins?

A. It is a matter for you to consider.

Q. Do they not follow the Brahmins in marrying their girls. There are 40,000 people here amongst them. We understand that pre-puberty marriages were not common amongst them before and yet they have followed your example. So if we do not catch you, will not the other people revert to your views?

A. I thought you are arguing for my case.



Q. I am not arguing for anybody's case. Here are people who were not actually having pre-puberty marriages and still they follow you. So I must catch you.

A. The people who were not actually having pre-puberty marriages, since they have got into this bad habit, the law should intervene not to allow them to do so.

Q. Why should I not catch the man who is the offender of it?

A. That is a mistake. We are not the offenders of the mischief.

Q. Perhaps it might be a good custom. I want to know the reason why they are following your custom?

A. That is a mistake on their part. You should prevent them.

Q. Should I not prevent the persons whose customs they follow?

A. It is not a custom but it is the religious injunction.

Q. Supposing we hold that this is not a religious injunction but it is a custom, will you agree?

A. I mean so far as Southern India is concerned, you will have to make a distinction.

Q. There is a mass of evidence of Brahmins who hold that pre-puberty marriage is a custom and not a religious injunction. Will it affect your opinion one way or the other?

A. Even then you ought not to interfere with it as it serves the big ideal I have referred to just now.

Q. If you are to legislate for the minimum age of marriage, does it prevent you from engaging your girl to a boy?

A. It does not prevent us, so, but it won't help us.

Q. Would that not satisfy your sentiment?

A. No, it would not.

Q. Why not?

A. Because the actual tying of marriage and the Saptapadi must be done when the girl is 10.

Q. Will not the engagement serve the purpose?

A. Not at all. It is impossible that should satisfy the custom or the injunction referred to just now.

Q. Do you fear that the engagement will be broken?

A. The engagement might be convenient but I cannot agree to this.

Mr. Mitra: Is child marriage before 13, according to you, an evil or good?

A. According to me, of course, it doesn't matter.

Q. Between the ages of 10 and 13 or 10 and 12, do you consider it an evil or good?

A. It is good for the Brahmins.

Q. In your answer to question 2 (ii) you say in the end of that paragraph that the Brahmins who are the most affected class know the evils and are trying to get over the same on one pretext or the other. Am I to understand that there are evils of early marriage?

A. It is only a comparative statement that I made there. What I mean to say is that the rush of evils for each stage is quite understood.

Q. Are you not saying that they try to get over this evil on one pretext or another?

A. All that they say is that they are marrying their girls after 10.

Q. Don't you think that if there be a legislation fixing an age above 12, that will give them the pretext that you contemplate here by which they can get rid of this evil?

A. Not at all. On the other hand, you will spoil the society. They want to explain away their Shastras and try to minimise the evil as much as possible. Your outside legislation will only spoil all their attempts at getting those pretexts. The injunctions and Shastras are so interpreted by them as admit of the least evil being brought upon their society.

Q. Do you suggest that the Brahmins are living for others?

A. They are to live.

Q. Do you seriously think that in practice the orthodox Brahmins do live for others?

A. It is a fact.

Q. What is the percentage of Brahmins in Madras belonging to the orthodox class who are living for others?

A. I can say that, there are specific instances devoted to work in that spirit.

Q. Is it possible in practice in this Kali Yuga for the Brahmins to live for others?

A. It is possible.

Q. What is the percentage of orthodox people amongst the Brahmins who you say are living for others?

A. More than 50 per cent. of the Brahmins live for others.

Q. Do you believe that 50 per cent. of the orthodox Brahmins live for others for keeping up the ideal?

A. Yes.

Q. As regards these orthodox people who really believe in *Shastras*, the marriageable age is between 8 and 10. Do you admit that?

A. Yes.

Q. Above 10, is not recommended by the *Shastras*?

A. It is not allowed to the Brahmins. I may say that they have construed it to mean before puberty.

Q. Do you not know that the ages mentioned in the *Shastras* are 8, 9 and 10?

A. They do marry in these ages. I say the percentage of Brahmins who have been thus interpreting the *Shastras* is so large that it is now quite fair to take it at 10. I say that there should be no legislation at all for Brahmins.

Q. Instead of saying that there should be no legislation at all for Brahmins, would you be satisfied if there are exemptions or some licenses for exemptions?

A. There may be exemptions. You ought not to have any legislation for the Brahmins at all because such of them as have already been prepared to go beyond the ages prescribed, don't want the law. Those that want to be within that ought not to be prevented from doing so. If at all you have a marriage legislation, you should exempt the Brahmins from it.

Q. Going a step further in that logic is it not logical to say that the non-Brahmins who marry their girls after puberty require no law, those who are for early marriages should be exempted? Why is there a necessity for this law?

A. In fact the logic that I have given is supported in the case of Brahmins by all things that might be held sacred to support the position.

Q. In fact you say that there should be a law for non-Brahmins. Is this premise correct?

A. I don't at all want a marriage law but I am not against it in the case of non-Brahmins.

Q. Do not marriages take place amongst the non-Brahmins after puberty?

A. Mostly marriages amongst them take place after puberty.

Q. Why is there a necessity then for a law for those people?

A. I don't want any law at all.

Q. In para. 4 you say that the consummation of marriages should be registered and practically you suggest that the *Garbhadan* ceremony should be registered. How it can be done?

A. You know the law of 1925 is a dead letter because the real difficulty has been to prove the ages and therefore I give a constructive proposal.

There is in every village ordinarily what is called the death and birth register which is maintained without care now, and if you check it now and then the ages can be easily ascertained; and if you ask at the time of consummation a report to be made by the father or the husband, that will give you a security for making it effective.

Q. Do you want this registration for all people or only for non-Brahmins?

A. You have to exclude the Brahmins from this law.

Q. Do you know whether *Garbhadan* ceremony is performed amongst the non-Brahmins?

A. So far as I know, I don't think there is any such ceremony.

Q. Don't you think that the non-Brahmins, Hindus and Mahomedans will not like that the consummation of marriage should be registered?

A. That does not affect them.

Mr. *Mudaliyar*: Surely don't you think that *Garbhadan* ceremony is merely a respectable way of saying that consummation is taking place that night?

A. It is more or less a technical word. *Garbhadan* ceremony is not the actual ceremony that is celebrated by the non-Brahmins. That is what I say.

Q. You were speaking of the registration of consummation of marriages. Do you want the fact of consummation that is going to be done that night to be registered?

A. When a marriage is fixed, it is to be reported to the officer.

Chairman: Do you want the registration of marriages or the registration of the *Garbhadan* ceremony?

A. The registration that I refer to is a register which will show the particular age, etc., when they enter into the marriage.

Mr. *Mudaliyar*: That is by marriage you mean inclusive of that night's function. Is that so?

A. Yes.

Q. Is it your view that amongst the non-Brahmins consummation takes on the night of the marriage day?

A. Yes.

Q. Is it your evidence that amongst the non-Brahmins the marriage takes place after puberty?

A. Yes.

Q. What do you mean by registration of consummation of marriages?

A. I mean by it the registration of marriages.

Q. In your answer to question No. 20, you say that legislation fixing the minimum age for marriage is better. What is the minimum age which you would fix for marriage? Do you give any age for men also?

A. For men in the case of Brahmins I would fix 16 and above and in the case of non-Brahmins 21 and above.

Q. If as you say it is very difficult really to keep to the texts of the Shastras and people do not really follow them, what difficulty do you find if the marriageable age is fixed a bit higher, say, at 12 for Brahmins?

A. There is no need at all. We are only unnecessarily worrying about ourselves. The Government ought to shut its eyes completely in such matters.

Q. By early marriage, say, marriage before 12, if there had been any real evil effect, then would you advocate a change; and may I take it that you have no objection to fixing the age on religious ground?

A. By early marriage, I say, that there is no evil consequence. I never said that I have no objection on religious grounds to fixing the minimum age of marriage. I do say that I have objection to any legislation because it is against the religious injunction.

Q. Don't you agree with me that those who do not care to read any branch of the Vedas, are not Brahmins at all?

A. They do study the Vedas.

Q. So are they not to follow the Shastras which fix 24 and 8 and 30 and 12 for men and girls?

A. I haven't followed those Shastras. You may be right.

Q. So am I to take it that you will not fix any minimum age for boys which goes against the Shastras?

A. In fact our Shastras contemplate a great difference between the age of the boy and girl. The ideal age for a boy might be 24; but my argument is that in practice they don't follow the Shastras.

Q. If you keep up to that ideal, then don't you think that you shouldn't prescribe anything that goes against the Shastras?

A. I never said so.

Q. Don't you agree that in practice the Brahmins do not follow the Shastras?

A. The fact that a Brahmin has fallen from that position ought not to be used for this purpose.

Q. At least what is the percentage of Brahmins who follow the ages of 8 and 10?

A. I cannot say that. Now I think it is getting higher and higher.

Q. Have you attended any marriage amongst the non-Brahmins?

A. I have attended many.

Q. I am speaking of the marriage ceremony itself and not about the tea party or the music party. Have you attended any such marriage?

A. I have attended marriages but I haven't gone through the various rituals. I have attended the very pandal itself but I don't know the other rituals.

Q. Do you know whether or not *Saptapadi* is performed amongst the non-Brahmins?

A. I don't know.

Q. Similarly do you know whether there is any *Garbhadan* ceremony amongst them or anything like that?

A. There is no *Garbhadan* ceremony as far as I know, because the word "*Garbhadan*" is not one used by the non-Brahmins.

Q. Do you know whether there is any ceremony in the morning of the day of the consummation of marriage?

A. There is the tying of the *Tali* ceremony.

Q. Do you know amongst which class of non-Brahmins the consummation takes place that very night?

A. I find that in most cases it takes place that night. I am only talking of those who are living around me.

Q. Are you aware that the marriage ceremony amongst the non-Brahmins generally is not a single day ceremony?

A. Sometimes it is not.

Q. Are you aware of the *Kankana Vioarjana* ceremony?

A. It does not take place on the same day but it takes place generally on the 2nd or the 3rd day.

Q. Do you suggest that the consummation takes place before the *Kankana Vioarjana* ceremony?

A. I don't know this. On the night of this day, there is this ceremony.

Q. I suggest to you that you will please look into the marriage invitations more carefully because you ought to know more about our customs and manners. You may take it from me that the practice is that firstly the *Kankana Vioarjana* ceremony is performed and then the consummation takes place.

Q.—You suggest the registration of consummation of marriages. Am I to take it that you don't want this to be applied to the Brahmins because you don't want them to come under the law of marriage and law of consent?

A. I wish to correct myself. I want the registration of consummation of marriages for all communities, and not for one community only.

Q. What is the *Shastric* injunction regarding the performance of the consummation of marriage?

A. The consummation of marriage should be performed within 16 days of the attainment of puberty of the girl.

Q. What percentage of Brahmins do you think follow this particular injunction?

A. Probably 1 or 2 per cent. follow this injunction.

Q. Is not the particular text violated by everybody in that case?

A. I have said that in many ways it is violated.

Q. I am only concerned with this particular text. This text is ignored so that the ground of religion cannot be a valid ground for fixing the age of consummation. Is it not so?

A. My impression is that it is no ground.

Q. On what ground do you object to an advance in the Age of Consent?

A. The injunctions have been practically set at naught. Their society is an advanced society. Why do you interfere by law.

Q. You may consider the society as advanced but others may think that the society is not advanced.

A. What I say is this. The object of this present law is to protect society from certain evils that are caused by early consummation, etc. Now here is a society which though restrained by certain injunctions is trying to get out of them and is according to all, progressing as best as possible. So I say why should the legislature interfere with this.

Q. I shall put it in this manner. You say that the Brahmin society has already begun to realize that early consummation is not a good thing, that it is in favour of an advance, that it is already advancing—the pace may be less—and why do you want legislation to hasten the pace. We shall advance and progress in our own way though not at once, at least in 50 years. Am I fair in summing up the position?

A. You are wrong in summing up the position. You don't understand the characteristics of my point. Social legislation is to be used only for certain purposes, where it is productive of good. So in this case it is otherwise and no legislation is needed.

Q. Let me analyse this statement a little further. Early marriage and early consummation form the key stone of the structure of the Brahmin society. If we remove that key stone, the society will tumble down. Am I right in saying this?

A. That is not correct. The ideal of the Brahmin society is to create such a relationship between the husband and wife that the question of consummation of marriage is not at all taken in the spirit in which the law would like to apply it.

Q. I will put it to you in this way. You suggest that if a boy and a girl get married at an early age, they can know each other at a very early age, the girl would look upon that boy as her adviser and this relationship cannot be brought about if the girl has attained a particular age. Am I right in summing the position?

A. You will have to add only one more sentence and that is “the devotion that should be built up for that relationship.”

Q. You mean to say that the devotion that should be built up for this purpose is brought together at an early age. Is that what you mean?

A. Yes.

Q. Do you suggest that in other communities the devotion between the husband and the wife is less than amongst the Brahmins?

A. This question does not arise in the case of other communities excepting the Brahmins. They have nothing to do with the spiritual side but have only to attend to their business according to the structure of the Hindu Society. But it is not so in the case of Brahmins.

Q. Do you suggest that there is a difference in the angle of vision between a non-Brahmin wife and a Brahmin wife towards their husbands?

A. The non-Brahmin wife by social surroundings may be always devoted to the husband as a Brahmin wife or any others. But there is no obligation that arises for spiritual benefit in the case of others excepting the Brahmins. Spiritual benefit is not for themselves alone but according to the ideal is for all.

Q. Do you suggest that a Brahmin wife plays always a prominent part?

A. She plays an equal part.

Q. In how many ceremonies does she take part along with her husband?

A. There is no one ceremony in which she doesn't take part.

Q. The only reason why you suggest that this custom of early marriage and early consummation should be kept is because of the spiritual grace which the Brahmin will give to the world at large. Is that so?

A. The spiritual benefit that arises out of that will go to himself first and then to the world at large.

Q. Do you mean to say that that spiritual benefit can never arise with reference to other communities?

A. There is no question of spiritual benefit being given by members of other communities and therefore this particular practice doesn't bind them or ought not to bind them. In fact the duty that is ordained upon them is only material. They are falling into a mistake when they imitate the Brahmins.

Q. Will they not think that they are attaining spiritual grace by copying this custom?

A. Not by the marriage.

Q. Do you mean to say then that this is a thing which can only do good so far as the Brahmins are concerned?

A. I say that the Brahmins are keeping to their injunctions and are creating spiritual benefit both for them and the world. They needn't go to make any special effort to attain spiritual benefit.

Q. May I take it that on principle you have no objection to any social legislation?

A. I am absolutely opposed to any legislation.

Q. I thought that you were advocating legislation for the poor non-Brahmins who try to ape the Brahmins?

A. You cannot make assumptions. The poor non-Brahmins are not asked to die. I don't want legislation in any of these matters except in case of non-marital relations.

Q. Supposing it happens that a law is passed for everybody fixing the Age of Consent at 14, what do you think will be the consequences?

A. It will be a dead letter just as it is now.

Q. Supposing it is fixed at 16, will it still be a dead letter?

A. It will be.

Q. Supposing the legislature by some perversity of attitude fixes 16 as the age of consummation and takes steps to see that this is enforced and also inquisitorial proceedings as you choose to call them are taken, will you tell me what will be the condition of the Hindu Society?

A. All that I say is that the Society will be lost in its morals.

Q. Will there be a mutiny?

A. How can you say that now?

**Written Statement, dated the 16th August 1928, of the Secretary, the Sanathana Dharma Pracharaka Sabha, Kumbhakonam.**

I have the honour to submit herewith the replies of the Sanathana Dharma Pracharaka Sabha, to the questionnaire issued by the "Age of Consent" Committee. The views therein expressed represents not only the collective opinion of the Sabha but also the individual opinions of the Members.

*Answers sent by the Sanathana Dharma Pracharaka Sabha of Kumbhakonam to the questionnaire issued by the Age of Consent Committee.*

1. Section 375 of the Indian Penal Code refers to two kinds of consent—(1) by a wedded girl, and (2) by girls in cases of cohabitation outside marriage. So far as concerns the married state, no dissatisfaction has proceeded from any quarter as to the present state of the law.

Prostitution appears to exist of girls below the age of 16, and immoral men of all stations in life are likely to be concerned in it. It cannot be expected that any satisfaction or dissatisfaction would be expressed by the persons concerned in such traffic—the young girls who sell, or are made to sell themselves for a consideration, the intermediaries who procure such illicit connections, and the immoral men who resort to such connections. As for moral and thinking men, they also have little dissatisfaction, as they cannot believe that legislation is the fit and proper instrument for bringing about reforms in sexual matters.

2. We are not for any further interference by the Legislature with the age of consent within the marital state. Outside marriage, we have no objection to raise the age, though we have little faith in its real or direct efficacy. The sexual life and activities of men and women are so intensely personal and private, the urge in regard thereto is so rooted in natural instincts, and their exhibitions and manifestations are liable to such incalculable variations in individuals and communities, that mere legislation, as such, can very little control them.

3. Such crimes are not frequent in this part of the country. We do not think that the amendment of the law in 1925 has had anything to do with increasing or decreasing cases of transgression of the law. We believe that, except for social reformers, or others who have had occasion to specially note the change in the law, the people at large are unaware that there has been any change at all in the law made in 1925. As for persons of immoral or criminal tendencies, they indulge their proclivities in spite of the law, and would care little to take note of the little amendments that may take place therein from time to time.

4. The Amendment of 1925 has had, we believe, very little to do with the three questions propounded in the three sub-clauses. The age of consummation is determined by factors which are outside the influence of mere legislation as such. Instinct, heredity, home influences, occupation and modes of life, economic considerations, the particular training and outlook to which the parents and bride-grooms are subjected by their immediate social environment,—it is these which influence the age of consummation of marriage, and not legislation. In the question raised by the sub-clause (3), if by the term "marriage" used, is meant betrothal, then it is difficult to see how the legislative raising of the age of consent can have anything to do with the age at which betrothals are made.

5. The age of puberty may be taken to be ordinarily between 13 and 15. Cases earlier than 13, and later than 15, may be regarded as abnormal, considering their proportion to the general run of cases. Heredity, occupation, education, the home-life, all these influence the age of puberty. In the Brahmin community, especially in the English educated families addicted to the modern ways of life, food, and drink, the age of maturity is somewhat earlier than in other communities engaged in occupations involving mere

physical work and leading simple lives. Also generally, in towns the age of puberty tends to be earlier than in the rural parts.

6. Cohabitation before puberty, so far as we are aware, is absolutely non-existent in this part of the country. Cases of cohabitation within marriage before the girl completes 13 years are also very very rare, if not practically non-existent.

Apart from cases of rape perpetrated in defiance of law by criminals, cohabitations of the nature referred to in the question are not likely to come to court, because, if at all such cohabitations take place within the marital state, they are not likely to come before the court, as the violence to the sense of modesty, and the social obloquy that would necessarily result therefrom would act as effectual deterrents to any thought of resorting to the courts. As for cases outside the marital tie, such cases, if at all, must take place under conditions of safety and secrecy, and hence are not likely to come to court.

7. So far as we are aware, there is no religious injunction sanctioning consummation of marriage before puberty. There are certain precepts advising consummation soon after the occurrence of puberty. (*Vide* Manu Smrithi, Chapter 9, verse 4. and Chapter 3, verse 45.) But they relate to a condition of life and society where men and women lived up to a hundred years, when boys and girls were brought up under a strict code of religious and domestic discipline, when a boy was to lead the life of a Brahmachari for 12, 24, or 36 years, learning one, two, or the three Vedas under a daily routine of extreme simplicity and strenuousness, and strictly removed from all associations, suggestions, and contacts of a sensuous nature, and girls reached puberty naturally after having become fully developed for taking up the function of motherhood. Manu prescribes approach of the wife by the husband within 16 days of her menses; and he simply lays down that a default would involve censure, that is, would be regarded as a lapse from correct conduct. It will be seen, therefore, that Manu's injunction is not mandatory, and had been laid down in a different age when different conditions of life prevailed.

8. There is a Garbhadhan ceremony performed in this part of the country. It is celebrated about at least one year after puberty, and, in many cases, after two years. Betrothal, which is known as marriage in these parts, takes place anterior to puberty in the Brahmin community, and in all other communities which follow them.

9. Under ideal conditions of hygienic living, and religious and moral discipline at home and in society, puberty will be attained only when there is real fitness for becoming a mother. The first descent of the ovum into the womb is shown by the external sign of puberty, and Nature ordinarily intends it as a sign that consummation may be performed. But, under the deleterious moral and physical conditions of modern civilised life, puberty frequently appears prematurely. Hence under the circumstances of the present day, postponing consummation for two or three years after puberty may be beneficial.

10. The question would appear to suppose that cohabitation is an act which is resorted to by the parties ordinarily under a sense of duty, or as the result of prior deliberate thinking and responsible judgment. Such a supposition does not represent the fact. Cohabitation is ordinarily an act due to instinct, impulse, passion, craving, or anything of the sort, but ordinarily it is not a matter of intelligent choice, subject to restraint or revocation at the direction of the rational will. Hence, in this view, even a girl of 20 giving her consent for "love" would not be an intelligent one, "with a due realisation of consequences". There have been instances of grown up women, with children, giving themselves away to paramours, regardless of the moral consequences. If some age has to be fixed then we would fix the age at 18 in non-marital cases—so that a girl cannot dispose of her person at an earlier age than she can legally dispose of her property.

11. Nil.



12. We do not consider that early consummation or early maternity, as such, are responsible for interfering with the physical or intellectual progress of the people. The term "early" is an elastic one. The absence of the religious influence at home and in the schools, the modern indulgences in regard to food, drink, and amusements (hotels, theatres, cinemas, novel-reading, etc.) in short, various unnatural modes of modern life bring about early sex cravings in boys and girls. Excessive indulgences by men, and frequent child-bearings by women, occur in houses whose inmates lead fashionable or luxurious lives, or are engaged in sedentary or monotonous occupations, and who have refused to subject themselves to any sort of religious and moral discipline. The remedies for removing such conditions of life must be reared and shaped in other quarters than in the floor of the Legislative Council.

13. None, so far as we are aware.

14. The women in our part of the country have a fondness for their children, which in some cases is apt to show itself in a desire to celebrate the betrothal or the consummation of their children at an early age. But it is not a deciding factor in any perceptible degree, though some instances falling within this class can be cited.

15. We do not believe that the age of a girl can be accurately determined for purposes of a criminal prosecution, by the mere physical appearance, or by any other reliable test that can be devised. For cases under sections 375 and 376 of the Indian Penal Code, if the case is one relating to a girl, say, of under ten, there will not be any difficulty. Again, in the case of a clearly adult girl of 18, 20, or over, it can only be a question of want of consent. But in cases of girls, between 13 and 16, it is really a dangerous gamble in the region of uncertainties to seek, by appearance or other means, to determine the age of the girl—whether it is 13, 14, 15, or 16. There is always the likelihood of misjudging by at least one or two years, and whether 14, 15, or 16 is fixed particularly as the age of consent, there is no certain and reliable means of finding out the age even with reasonable exactness, so as to conscientiously fix down criminal liability; for if 16 is fixed as the age of consent, and supposing a girl who had really passed 16 years by a few days or months is concerned in the matter, it is almost impossible to prevent error or injustice in such cases.

16. The age of consent can very well be left as it is now. By raising it to 14, or above, the difficulty or margin of error in determining the age will not be materially reduced or minimised.

17—18. We would exclude altogether legislative interference within the marital tie. Outside the marital state, in clear cases of delinquency, punishment as provided by the existing law would be sufficient.

19. So far as cases within the marital state are concerned, we are of opinion that any amount of safeguard would be insufficient for making absolutely safe and protected the citizen's home and his private and domestic life from evil-motived persecution, and improper prosecutions.

20. We would repeat that, so far as the marital state is concerned, neither penal legislation fixing a higher age of consent, nor legislation fixing the minimum age for betrothal, will be acceptable to the public opinion in this part of the country; especially the Brahmin and the Vaisya communities would universally resent it. It may be asked what we think of the existing legislation, which does provide an age of consent within the state of marriage also. We would reply by quoting the words of Mr. A. Y. J. Campbell, Member of the Executive Council of the Madras Government: "Can we say that progress has been due to the legislation which has been undertaken? We have recently received from the High Court statistics of the number of prosecutions and convictions under section 376 of the Indian Penal Code, which relate to cases when the accused was the husband of the woman. The number of cases during the five years preceding the Act of 1925 was nil, and the number of cases since the Act, had also been nil."

(Vide Proceedings of the Madras Legislative Council of the 27th March 1928, Vol. 42, page 42.)

21. We are against any legislation, much more against penal legislation, to secure the object in view.

As regards connections within marriage, we are for leaving the matter to be regulated entirely by social opinion and domestic discipline, operating in the homes within the fold of the various communities. Let religion, tradition, education, social reform, all be permitted to have full scope to bring about the desired object, each in its own way, but let not the State and the Legislature interfere in the matter with their formal modes of prescription and coercion. However, there is at present an age of consent even within marriage, prescribed by the Law, though it has been a dead letter. Let it continue as it is.

In regard to cases of intercourse outside marriage, the age may be raised to 16, or even to any higher age, though, as we have already stated, there would be little achieved in practice by such legislative fixing alone. But if, as society now agrees, all non-marital intercourse is undesirable and immoral, and if, as the protagonists of reform appear to believe legislation can correct or prevent the immorality and incontinence of men and women, then, the logical course for the Legislature would be to penalise all intercourse outside marriage, that is, to enact that consent outside wedlock given by any female of whatever age, should not avail; and then, there would be no need for fixing any age of consent at all for non-marital intercourse.

### Oral Evidence of Mr. MAHALINGA IYER, Pleader, Kumbhakonam.

(Madurai, 29th November 1928.)

(Rai Bahadur Pandit Kanhaiya Lal, Presiding.)

Mr. Kanhaiya Lal: You represent the Sanatan Dharma Pracharak Sabha, Kumbhakonam.

A. Yes, I am the editor of leaflets issued by the Sabha in Tamil and I am also doing propaganda work.

Q. Are you one of the out editors of that Sabha?

A. Yes, and I am member of the Executive Committee and also its editor.

Q. How long have you been connected with the Sabha?

A. Since it was founded in the middle of 1927.

Q. How many members has it got?

A. It has got an Executive Committee for doing propaganda work, it prints leaflets and every Brahman round about Kumbhakonam should be considered to be its member.

Q. How many members there are in the Executive Committee?

A. Eleven.

Q. Who is the Secretary of the Executive Committee?

A. Mr. C. V. Venkata Aiyer was Secretary until 16 days ago. The present Secretary is Mr. M. K. Vaidyanathan.

Q. Is the object of the Sabha to carry on religious education or religious reform or social reform?

A. We do religious propaganda work in accordance with the tenets of the Shastras.

Q. It has nothing to do with social reform or religious reform?

A. That is not our purpose.

Q. Has this memorandum been considered by the Sabha and accepted by the members of the Sabha?

A. It was circulated to all the members and they have passed it.

Q. You are practising as pleader at Kumbhakonam?

A. Yes.

Q. How long have you been practising?

A. Since February 1915.

Q. Are there any communities in this part of the country where early marriage is practised?

A. Marriage before puberty is practised by the Brahman community in these parts and I understand that Chettis and Komti do it to a large extent.

Q. What about Saurashtras?

A. They are also like Brahmans.

Q. What is the usual age of marriage among those classes of Brahmans and non-Brahmans who go in for pre-puberty marriages?

A. Among the Brahmans marriage takes place at any age between 8 and 12 but there have been exceptions lately. Circumstances compelled them to raise the age but they think it is wrong to raise the age.

Q. Are those tolerated by the 'Brahman society?

A. No question of toleration arises. When necessity forces a thing it is recognised as necessity and not toleration.

Q. And sometimes people conceal puberty in order to hoodwink the people. Is that so?

A. If necessity compels there is no question of hoodwinking or concealing.

Q. It has been pointed out to us that there are cases in which puberty is concealed and marriages are celebrated after puberty.

A. That is the social reformer's method of putting it. I ascribe it to inevitable necessity.

Mr. Mudaliar: Do you not suggest that there are cases of puberty having taken place that it is not made public but after the marriage the girl is supposed to have attained puberty? Do you suggest as a matter of fact that the fact of puberty is concealed and revealed later on as having come on for the first time?

A. There are cases like that.

Chairman: Among Komtis and Vaishyas and Saurashtras the age of marriage is about the same as among Brahmans?

A. I cannot say for other communities.

Q. What is the usual age when girls attain puberty among the Brahmans?

A. A large percentage attain puberty between 13 and 14.

Q. At what age generally consummation takes place?

A. That is according to convenience.

Q. In most cases how many years after puberty it is effected?

A. I know of cases where it has been done within 16 days, one month, six months, one year and two years.

Q. You have said in paragraph 8 that *Garbhadan* ceremony performed in this part of the country is celebrated about at least one year after puberty and in many cases after 2 years. Is it performed generally one year after puberty and in many cases 2 years after puberty?

A. Yes.

Q. Would you be in favour of a rule postponing consummation till two years after puberty?

A. I am not for any legislation.

Q. But as a matter of practice would you recommend that consummation should be postponed for 2 years after puberty?

A. The society can have it but the legislature or State should not interfere.

Q. Would you recommend it for consideration to the society but you would not recommend it to the State to be adopted as legislation?

A. Under the present moral and physical conditions, I would do it but not recommend legislation.

Q. Would you not recommend it to prevent the deleterious consequences?

A. It is not as a consequence of consummation. It is due to the present physical and moral conditions that prevail on account of taking to English education and civilisation.

Q. In other words you make this recommendation because of the physical and moral conditions of modern civilisation. Is it not?

A. It applies only to those who have adopted those ways.

Q. Do Brahmins fall within that category?

A. Not all. It is only that section which has taken to western life and thought.

Q. Is it fairly large?

A. No, it is not large.

Q. What is the percentage of such people?

A. I believe among Brahmins in South India it may be 1,500 families and many of these have no idea of a Brahmin's life.

Q. Do you think there is a growing physical deterioration of the people in this part of the country?

A. It depends on the predilections of many dogmatic statements.

Q. But there is no proof for that.

A. I do not say there are incontestable proofs of that.

Q. Do you mean to say there is no physical degeneration among the people in this part of the country?

A. Except those who have taken to the lighter moods of life.

Q. Have you come across any cases of injuries to girl mothers giving birth to children at the age of 13, 14, or 15?

A. I have not come across any such cases.

Q. Instances have been brought to our notice where girls had children at the age of 13 or 14 and their health has been wrecked for life. If such concrete cases do occur don't you think it is necessary in the public interest that there should be some legislation to protect young girls from being treated in that manner?

A. There may be a few instances; they cannot be anything more. Instances cannot be brought into service for legislation for a community.

Q. We are legislating for the public in general.

A. Instances do not justify legislation.

Q. Suppose there are instances of theft, would that not justify legislation to prevent theft?

A. The analogy is wrong. Theft is in reference to the taking of property from one to another but here in the case of marriage or consummation between husband and wife the parties concerned are the parents, relations and the social group. It is these that are concerned with marriage or consummation and no outsider or the State. I do say that within the home the parents of the parties are absolutely paramount and therefore that principle would not be fair, proper or wise.

Q. If there are instances showing injuries to girl wives don't you think it is in the interests of society to stop them and take some steps to protect the girls?

A. Not by legislation. They are exceptional instances, they are abnormalities and abnormalities should be dealt with as abnormalities. In the present system of law there will be instances in all countries and in all ages.

Q. If a father himself were to murder his child then even for an abnormal murder of that character, would you think legislation unnecessary?

A. I repudiate that there is any practice prevailing for a father to murder his child.

Q. I say if there is an abnormal case don't you think legislation would be justified to stop cases of that character?

A. I say that such an instance does not occur.

Q. There is a difference between legislation and the application of the law. You are right in saying that the application of the law will affect only that particular individual who has committed that abnormality. I am talking of legislation generally and not of the application of the law, that is to draw a line of demarkation beyond which the people should not go.

A. By not going there will be some evils and sufferings which must be borne as we do in so many other things, political or social or religious. There are some evils connected therewith but the magnitude and proportion of the evil are in question.

Q. If a number of instances are shown to us that serious consequences have been suffered by girls on account of premature consummation, don't you think consideration would apply?

A. Until I know the details of those instances I am not able to discuss them properly. If consummation takes place after puberty and if there is any injury it must be due to some defect or disease or some sort of immaturity or it may be due to other circumstances. Even after 20 there may be injuries.

Q. But the possibilities of injuries are much less at 20 than at the age of 14 or 15.

A. Apart from individual possibilities, after puberty intercourse by a husband would not in normal cases result in injury.

Q. For abnormal cases would you make any provision?

A. The community itself must take it up and if such a community exists which has not got that consciousness of counteracting force to prevent the occurrence of such abnormalities in fairly frequent degree that community will die.

Q. Instances have been brought to our notice of consummation before puberty and we have been told injuries have been suffered by girl mothers and they have become lame and consumptive and their children are either weak or they die early or they are small in size. In view of these conditions, don't you think that some action is needed to remedy or check this evil?

A. I do not think that I should be called upon to answer a hypothetical question. In the parental house consummation after puberty between husband and wife does never lead to injuries.

Q. It has been pointed out by the Inspector General of Police in his report that there have been cases in which girls have suffered at the hands of husbands?

A. I should like to know the details of instances before I can give any answer.

Q. But if such cases are brought to light do you think the matter requires consideration and remedy?

A. Until I know the disease I cannot speak about remedy. The disease may be due to other circumstances. Until I know the details I cannot express an opinion.

Q. Could you tell us how many instances would you require before you can recommend any legislation?

A. I have stated in my memorandum that there have been no cases of injury by husbands to wives.

Q. Do you mean to say that the Inspector General is wrong?

A. I can only tell you what I have been informed.

Q. Is the text requiring pre-puberty marriage mandatory or recommended?

A. I consider it as mandatory.

Q. In what sense is it mandatory?

A. In that it would involve a sin if done voluntarily. Voluntary doing of betrothal after puberty involves the loss of caste.

Q. If it is done involuntarily then is there no sin?

A. If by all methods it is not possible then there is no sin.

Q. Is there any prayaschitta for expiation of that sin?

A. That happens when in some cases girls of 10 or 12 years attain puberty and for such cases *prayaschitta* is provided.

Q. Is the sin expiated?

A. The Smriti says so.

Q. Does not Manu lay down that if a father does not marry his girl before puberty, the girl should wait for 3 years and after 3 years she should select a husband for herself?

A. Yes.

Q. Does that not therefore imply that such marriages can be celebrated even 3 years after puberty?

A. That applies to cases of girls who have been abandoned.

Q. And that also applies to negligent parents.

A. Yes.

Q. Does not Manu similarly say that if a suitable husband is not forthcoming it is better that the girl should not be married and may remain a maiden for the whole of her life?

A. It should not be understood literally. There are a number of instances in Sanskrit which if taken literally would lead to very great absurdities.

Q. Have we no instances in Hindu Shastras of girls remaining unmarried for the whole of their lives?

A. Some instances do not make laws.

Q. Do they become Shudras by not marrying before puberty? I want to know whether pre-puberty marriage is definitely insisted?

A. In any country there are instances which are described as history; they are not to be taken for choosing a rule of conduct. They are not to be taken as *ishtadharma*. Exceptions always occur.

Q. But are these exceptions sinful?

A. They are sinful.

Q. If the girl does not marry, will it be a sin?

A. If a girl neglected by her father marries after puberty she commits no sin.

Q. According to Parasar does not a person who marries a girl of this character whom the father has neglected become a *vrisholipati*? Does it not go against Manu?

A. That would apply to cases not mentioned by Manu.

Q. Bodhayan lays down as a general rule that a person who does not give his daughter in marriage for 3 years after she attains puberty commits a sin of *Bhrunhatya*.

A. *Bhrunhatya* is only committed if the neglect to give a daughter in marriage for 3 years is proved. Bodhayan alone cannot be interpreted as authoritative. I will take Smritis as a whole but I will not take *Parasar* as a whole or *Manu* as a whole.

Q. Supposing the legislature decides to enact a law fixing an age for marriage, what age would you recommend?

A. I would not recommend anything at all. If anything comes at all I would submit to it as an inevitable tyranny.

Q. Suppose the legislature decides to enact a law fixing an age for consummation, what age would you recommend?

A. I would not recommend anything at all.

Mrs. Nehru: Is this statement of yours on behalf of the Brahmans or is this on behalf of the Hindus as a whole?

A. I have spoken on behalf of Hindus who are willing to be bound by certain obligations recognised by authorities.

Q. What are your reasons for being against this age of consent legislation?

A. I want to have it annulled if possible. It is a wrong thing to enact a law. Marriage is an institution created by religion. It is only to be regulated by the community and not by an outside agency. My first ground for opposing it is that it is a religious question and the other is that we want no legislation for social matters.

Q. On religious grounds may I ask you whether the Brahmans and others, on behalf of whom you are speaking, follow all the religious injunctions that are laid down in the Shastras?

A. I cannot give a general answer to that; in some cases they do and in some cases they do not.

Q. Is it not a religious injunction for the Brahmans to read the Vedas?

A. It is a precept. It is the duty of all Brahmans to learn the Vedas.

Q. Do you put this injunction on par with the injunction enjoining the consummation of marriage at an early age?

A. The performance of early marriage is more paramount than the reading of Vedas.

Q. Is the observance of Brahmacharya amongst those paramount duties which can be put in the same category as early marriage?

A. No, that is not as paramount. Lapses from *brahmacharya* are provided for by ordinary *prayaschitta*.

Q. Is there no *prayaschitta* provided for the lapse of early marriage?

A. For voluntary lapse there is no *prayaschitta*.

Q. I understand you to mean that there is no other sin which is equal to the sin of a late marriage?

A. There are so many others which are like late marriage.

Q. May I point out to you that according to certain people's interpretations of the Shastras late marriages are not considered as sin and instances are found where in ancient times late marriages were performed?

A. I am unable to accept any such pronouncement.

Q. You reject other people's interpretations giving preference to your own.

A. By the tradition prevailing in my community no person has interpreted it like that.

Q. You say that Government should not interfere in domestic affairs. May I know where exactly you would draw the line?

A. I would refer you to "Man and the State" by Herbert Spencer. The line is shifted to this side or that side according as there is universal assent in a particular matter or not. It can be fairly stated that if there are groups or communities within the State which observe certain well-recognised practices which are different from one another, for instance matters like food and marriage, the State should not interfere with them, because they are the personal laws which are prevalent in the communities not requiring any outside interference.

Q. Do you consider the question of inheritance a domestic affair? In your opinion is the State justified in bringing it within the scope of the law?

A. Till now the law of inheritance has been governed by Hindu Law. In my opinion there are two kinds of laws, one which is applicable in

common to all citizens and the other which can be applied only in compartments amongst different communities. I think in the matter of inheritance the State concerned itself with a law applying to all communities.

Q. Do you not think that the Law has interfered with our domestic affairs in the past? Do you not think that the widow remarriage law is one such instance?

A. The widow remarriage law is only a permissive law.

Q. What is your opinion about Sati?

A. I do not think it is a social law.

Q. Do you not think that it concerns the domestic affairs of the people. If a wife wants to die or her relations want her to die with her husband what right has the State to interfere?

A. If a person for pre-possessions of his own or her own chooses to die no man or State ever prevents it. But so far as others are concerned, the *Shastras* distinctly say that no sort of pressure or persuasion or encouragement or no sort of facility should be given to that sort of thing. In my opinion it was not the State that prevented Sati, but the *Smritis* were themselves against it, and such practices were very few in the whole of the country.

Q. How do the *Smritis* apply here? The practice was altogether stopped. Even the commission of Sati by the Sati herself was stopped. You will admit that to that extent it was a curtailment of the liberty of the individual?

A. According to the *Shastras* Sati is said to be a *Kamya* injunction, which will help the Sati to go to the *Pati Loka* but not *Moksha*, provided she felt the impulse in her to undergo the sacrifice she made.

Q. But even then apart from the motive of her actions, the liberty of her action is curtailed and she is not allowed to commit Sati. The fact remains that she desires to commit a certain thing and the State has prevented it.

A. The analogy becomes imperfect because no injunction is cast upon her. No individual is asked to commit Sati, and therefore the prevention of that is not interference with religion at all.

Q. It may be that it is not interference with religion; but is it not interference with the liberty of an individual with his private and domestic affairs?

A. It was not social interference because it was not a social practice. But it is interference with individual liberty to a limited extent.

Mr. Mitra: May I take it that you are opposed to State interference in social matters?

A. I am opposed to interference in social matters within particular limitations which I can define.

Q. May I take it that you are opposed either to a marriage or a consent law?

A. Yes.

Q. Will it be true to say that the *Shastras* enjoin marriages between the ages of 8 and 10?

A. The lower limit is 8, and the upper limit is puberty.

Q. Is there any age limit for boys?

A. There is no limit in the case of boys, except the injunction that they must have become *Brahmcharis*. The lowest limit is that the boys can be married on the fourth day after the *Upanayanam* is performed, and that will be about the ninth year. There is no upper limit.

Q. Do you know of any orthodox people who really believe in these things?

A. There are many.

Q. Do you think that if there is a marriage law, these people should be exempted?



A. I would implore the legislators to look at the matter in a spirit of mercy.

Q. What percentage do you think really follow these orthodox principles?

A. A large majority amongst Brahmins follow these principles. Recently I went from village to village in the Tanjore District canvassing support for the propaganda against the Marriage Bill and there was not one dissident. I got in all about six thousand signatures for my memorandum.

Q. Do all of them follow the *Shastric* scriptures?

A. Yes; they do.

Q. Is it a fact that there is a custom amongst Brahmins of marrying their own sisters' daughter?

A. Yes.

Q. Do you not think that it is against the *Shastras*?

A. Yes; but we call them as *Pancha Anacharas*, and such marriages are a fairly noticeable number.

Q. It is a fact that amongst Saurashtra Brahmins, people marry their own uncle's daughter?

A. I do not know.

Q. In view of what you said about the *Pancha Anacharas*, do you think that custom is sometimes followed more than the Scriptures?

A. No custom of such a widespread nature and such a longstanding one ever comes into vogue unless it has been sanctioned by the Scriptures. We attribute this practice to a lost Scripture. In the Vedas there is a reference to a boy having the right to the hand of his maternal aunt's daughter and by inference we take it that the practice was in vogue?

Q. In the same way do you not think that there is a reference in the Vedas to post-puberty marriages?

A. But I put it upon custom. Inference is not always a legitimate method for laying down methods of practice. Inferences do not constitute a basis for laying down rules of conduct.

Q. Do you believe that early marriage at 12 or 13 leads to the deterioration of the health of the girls?

A. I do not say that. I do not think they can be said to be cause and effect.

Q. What is the average life of people in India and people in other countries?

A. The average life of the Indian might be shorter, but many people say that it is solely due to political and economic causes, and also to our people imbibing western culture.

Q. Do you agree that our period of life is far less than that of westerners?

A. Yes.

Mr. Shah Nawaz: Are you a religious propagandist?

A. I cannot say that.

Q. I understand you print leaflets and distribute them amongst the people. Will you send us a few specimen leaflets?

A. They are all in Tamil. I will try to translate them and send them on to you. But they have been discussed only from a popular standpoint.

Q. Is your society doing propaganda against post-puberty marriages?

A. I am doing it to a very limited extent.

Q. Do you believe in the perpetuation of the caste system?

A. To my mind, I think it does not arise.

Q. Are you one of those persons who want to make no advance in any direction?

A. I do not want to answer that question.

Q. You say that the injunctions regarding pre-puberty marriage are mandatory and not recommendatory. What is your criterion for saying that?

A. There are certain injunctions for the infringement of which the punishment is loss of caste and this is one of them. But consummation of marriage later than the first sixteen days of the first menstruation, for instance, does not entail loss of caste and therefore it is only recommendatory.

Q. Do not the Shastras say that if a man does not approach his wife within the 16 days of the first menses, he commits child murder?

A. This is called *Artha Vada*. The texts should not be attempted to be interpreted as they are, but by the rules of interpretation which have been laid down.

Q. What is your criterion for saying that in one case it entails loss of caste, and in the other it is only a sin?

A. One of the ways by which we can judge whether it is mandatory or recommendatory is by seeing whether tradition or continued practice has laid it down as mandatory or otherwise. This is mostly based on tradition handed over by the most knowing people through a number of generations.

Q. Is there any difference of opinion on this point?

A. Only within the past 10 or 15 years. The origin of the controversy was a book written by the Right Hon'ble Srinivasa Sastri in 1909.

Q. Is it not a fact that in the case of post-puberty marriages, a cow is given so that the sin may be forgiven?

A. That is only in unforeseen cases.

Q. What is the position of the girls in regard to these marriage affairs? Has the girl got a voice in the selection of her husband?

A. In pre-puberty marriages it is always the parental choice. In the nature of the case the choice of the girls is not practicable.

Q. Has she any choice at all?

A. Yes; even when she is given in marriage by the father she has a voice.

Q. Can girls of 8 or 10 exercise a choice?

A. That is why I said that in the nature of the case it is impracticable.

Q. In your last paragraph you say "Let religion, tradition, education, social reform, all be permitted to have full scope to bring about the desired object, each in its own way, but let not the State and the Legislature interfere in the matter with their formal modes of prescription and coercion". What is the object you refer to?

A. The object desired by the progressives and the social reformers who think that an advance in the present legislation is necessary.

Q. Do you think that it is unnecessary?

A. I think that the interference of the State in marriage affairs is undesirable and that the State should not make coercive laws.

Q. Do you want social reform in the direction of raising the age of consent or not?

A. I do not want social reform as it is understood in the ordinary parlance, namely, interfering with another's affairs and imposing one's will by coercion. On the other hand I believe in self-reform.

Q. Do you want the age to be raised at all or not?

A. I think each case must depend on the individual case. I think the parents and the parties must fix the age.

Q. Do you think that nobody should advise?

A. My point is let everybody advise, but let nobody coerce.

**Written Statement, dated the 26th August 1928, of Mr. N. SUBRAHMANYA AIYAR, M.A., Editor, "The Indian Thinker," Trivandrum, Retired Senior Dewan Peishkar, Travancore.**

1. The law is practically a dead letter as far as my information and experience extend.

2. I have failed to see any valid circumstance justifying any interference with the law either way.

3. Answers to the two queries are in the negative. The need for answering the third query does not therefore arise.

4. In view of answer to questions *supra*, question 4 is unnecessary.

5. Between 13 and 15. The difference between the various castes and communities is not much.

6. No.

7. In view of the answer to question 6, this question does not arise.

8. *Garbhadhana* is another name for "consummation". The Brahmanas are almost the only people now who have a ceremony for that purpose.

9. This is a question for expert answer.

10. If the consequence of cohabitation intended by this question is the likelihood of conception, every girl who has attained the age of puberty may be considered competent to give an intelligent consent in the matter. But if the consequence is taken to cover the effect, near and remote, on the health of herself and offspring, its realization cannot be guaranteed.

But there are many acts equally, if not more prejudicial to health, which people of even adult ages commit, not in this country but all the world over—but with which legislatures do not consider it their province to interfere.

11—13. No.

14. Not particularly.

15—16. *Vide* answer to question 1.

17. The answer to the first part is decidedly "yes". The answer to the second is "As mild as you can, in regard to marital offences". In regard to extra-marital offences, I do not feel I can offer any helpful suggestion.

18. Answer to the first part is "yes".

19: I can offer no opinion.

20. Answer to the first part is "yes". This would be less repugnant to public opinion.

21. So far, the law has been a dead letter. Attempts to stress it and enforce its provisions will only lead to oppression and black-mail. Education and social propaganda are the best and the most effective.

**Oral Evidence of Mr. N. SUBRAHMANYA AIYAR, M.A., Retired Senior Dewan Peishkar, Travancore, Trivandrum.**

(Madura, 29th November 1928.)

*Chairman:* Were you at one time Dewan Peishkar of Travancore?

A. Yes. I was Dewan Peishkar for 18 years.

Q. What were you before that?

A. Before that I served in various capacities. I was Sanitary Commissioner. I was for some time in charge of the General Hospital. I was then transferred to the Administrative Department. I wrote the Gazetteer for Travancore. I conducted the Lithographic Survey in Travancore. I conducted two censuses in 1901 and 1911.

**Q.** When did you retire from service?

**A.** In 1920.

**Q.** Is there any law in Travancore fixing the age of marriage?

**A.** No, none.

**Q.** Are you in favour of a law fixing the age of marriage?

**A.** By law if you mean physical force by the State, I object to that.

**Q.** Are you in favour of social legislation in matters like this in the interests of society, if that is needed?

**A.** Legislation in regard to such matters indicates that the King is powerless in other ways.

**Q.** Is child marriage, or marriage under 13 prevalent amongst any community in the Madras Presidency?

**A.** There are many marriages before 13; and they are mostly prevalent amongst Brahmins.

**Q.** What is the usual age of marriage amongst Brahmins?

**A.** It is varying. It was formerly 9 and 10. Now it is going up and it is being advanced to 11 and 12. I think that marriage as an institution is threatening to get abolished.

**Q.** Is there any Shastric injunction requiring that marriages should be celebrated before puberty?

**A.** I do not know the Shastras.

**Q.** Do you think that marriages in practice take place amongst Brahmins even after puberty?

**A.** I do not think so.

**Q.** When do girls usually reach puberty?

**A.** It ranges between 11 and 14.

**Q.** When does consummation generally take place?

**A.** It is usually not long after puberty.

**Q.** How long after puberty?

**A.** Now-a-days consummation is postponed with a deliberate purpose. It is a recent phenomenon.

**Q.** When does Garbhadan usually take place?

**A.** Ordinarily it ought to take place as soon after puberty as is convenient to the parties. But now-a-days there is a tendency to avoid it as much as possible as a deliberate act.

**Q.** How long is it usually put off?

**A.** 6 months; sometimes one or two years.

**Q.** Can you tell us whether you have come across cases in which girls have suffered by reason of early consummation?

**A.** I have not.

**Q.** What is the age which you would consider sufficient to protect girls against possible evils of early consummation?

**A.** It depends upon the individual.

**Q.** Generally speaking, what would you have it at?

**A.** It would be dishonest on my part if I attempt to give any average of that kind.

**Q.** Can you tell us when a girl would be safe for maternity?

**A.** By attempting to give you any figure of that kind, I would be frustrating the cause of truth.

**Q.** Can you tell us when ossification is fully developed?

**A.** I do not know it.

**Q.** If the State decides to fix an age for marriage, what age would you recommend?

A. I decline to answer that question.

Mr. Shah Nawaz: What are your reasons for your being against legislation on these matters? "

A. Legislation is the application of physical force which, ordinarily speaking, should come only as a last resort.

Q. Do you base your objections on religion?

A. I oppose on grounds of common sense. Also I am not prepared to go against the *Sishtha achara*, or approved usage, if I can help it.

Q. Are pre-puberty marriages due to custom?

A. Yes; they are due to approved usage.

Q. Are pre-puberty marriages due to custom or due to religious injunction?

A. They are due to custom having religious sanction at the back of it.

Q. Is that religious injunction mandatory?

A. I do not know anything about it, but it is usage.

Q. How do you think any usage should be altered?

A. In my opinion it should not be altered. Give me the reasons which you think necessitate an alteration. We shall examine the reasons and find out if a change is necessary or not.

Q. If we come to the conclusion that early marriages and early consummation are bad for the society because they result in the death of the girl mothers and the infants, and that there are other evil results following from it, do you think that we should prevent it or not?

A. If the Government comes to that conclusion and the Government wants to prevent it, it will do it. My saying yes or no will not affect it at all. But all the same I will say that the Government is wrong.

Q. Supposing 60 or 70 per cent. of the people think that early consummation and early marriage are bad?

A. Even if the entire people of the world say it is wrong, I will not hesitate to say that they are wrong if I know that it is not true. Truth does not depend upon the number of heads which are for or against it.

Q. What is the test of truth?

A. You say that early marriages and early consummation are productive of evil results. If you give me your reasons for saying so, I will examine them, and we shall then find out whether there is any truth in it or not.

Mr. Mitra: From your long experience, have you found that early marriages lead to evil results?

A. No.

Q. May I take it then that from your experience you think that they have no evil effects?

A. There is nothing appreciable. It has never struck me to enquire into the cause and effect between early motherhood and the condition of the mother. There was nothing unusual about it as to make me pause and reflect. If there had been anything unusual I would have certainly noticed it.

Q. We have had two kinds of objections to this legislation. Some say that they are in principle against any legislation in social matters. Others say that by experience they find that early marriages do not produce any evil results. And so there is no necessity for the law.

A. It is a fact that the physique of the Indian girl is deteriorating during the last few years. It is the same with men also. My grandfather was stronger than my father, and my father in his turn was stronger than myself. It is no doubt true that there is deterioration in the physique. But one must also remember that instances of this kind should be considered collectively as a whole, and not as individual cases. In olden days Indian society was a national organism whose component parts were able to live without

want or fear. But to-day every individual is subject to mental as well as physical strain owing to various economic causes and on account of the disintegration of the social organism which was once integrate by ties of mutual function. My opinion is that in every society there must be division of labour just as there are separate functions for every organ in the human body. If therefore the Indian woman is weaker now than formerly, it is due to those causes. Any interference of the State will therefore only provoke universal opposition and will provide a handle for discontented people.

Q. Is it a fact that Brahmin girls attain puberty earlier?

A. The age of puberty is now going down. But I cannot say if it is so especially in Brahmin girls.

Q. In opposing legislation do you rely only on *Sishta Achara* or on the *Shastras*?

A. I will be untrue to the *Shastras* if with my fragmentary knowledge of them I propose to defend them.

Mrs. Brij Lal Nehru: You have said that in marital relations you would like the punishment to be as light as possible. How much do you think it should be?

A. I cannot say.

Q. Would you rather have the law of the Age of Consent remain as it is at present?

A. It has remained a dead letter. If it had been a living law it would have given me some data to give an opinion.

Q. Would you recommend the abolition of the law?

A. I must take time to consider that question.

### Oral Evidence of Mr. M. GOPALA K. MENON, Bar-at-Law, Madura.

Chairman: How long have you been an Advocate of the High Court?

A. For nearly 20 years.

Q. Have you been connected with any social or religious reform movements?

A. I have not been connected with any social movements, though I have been doing some social work. I was a member of the Madras Legislative Council during the first three years.

Q. Can you tell us whether early marriage is practised among any communities in this part of the country?

A. It is being practised amongst the Saurashtras and the Brahmins.

Q. What is the usual age of marriage amongst the Saurashtra community?

A. Amongst the Saurashtras it varies from 8 to 14 and amongst the Brahmins it is from 9 to 13.

Q. What is the usual age amongst the non-Brahmins?

A. On an average it is about 15 to 16.

Q. Is Garbhadan ceremony performed amongst non-Brahmins?

A. I am not aware of that at all.

Q. Are you a native of this part of the country?

A. I have settled in this part of the country. I belong to Travancore and I came to Madura and set up practice 20 years ago.

Q. Among non-Brahmins can you tell us when is consummation generally affected?

A. Generally after puberty.

Q. How long after puberty?

A. Generally within one year.

Q. Have you come across any evil results either to mothers or to the children by reason of early consummation or early maternity?

A. Yes.

Q. Can you give us instances without giving names?

A. I was for some years Public Prosecutor in Ramnad district and I came across a case in which a girl died on account of early sexual intercourse.

Q. The case went to the court?

A. Yes.

Q. What about the child?

A. The child also died.

Q. Can you tell us what community did she belong to?

A. She belonged to the Saurashtra community.

Q. Do you know of any other instances?

A. No. That is the only case I know of. I have heard other cases, but that is the only case which has come to my personal knowledge.

Q. The cases that you have heard of are of girls of what age?

A. Between 12 and 14.

Q. What is usually the consequence of consummation with such girls?

A. Either the child dies, or both the child and the mother die. I made a report to the Magistrate of the case that I have mentioned.

Q. How long did you act as a Public Prosecutor?

A. 6 years.

Q. At Ramnad you made the report.

A. Yes.

Q. In order to remedy these evils would you recommend fixing the age of marriage or the Age of Consent?

A. I would recommend the age of marriage.

Q. What age would you recommend?

A. 16.

Q. Do you think it will be acceptable to the orthodox community?

A. It may not be.

Q. Would you not like to have an age as a first step which may be acceptable?

A. I think I will rather have the step I have suggested. It will be acceptable to the orthodox section. The orthodox section are mostly guided by custom and usage.

Q. What age would you recommend for consummation when the marriage age is fixed at 16?

A. It must be the same.

Q. If the Legislature fixes it at 14?

A. I don't think it does make any improvement at all.

Q. If 14 is fixed for marriage what age would you recommend for consummation?

A. 16 in any case.

Q. Would you keep cases below 12 cognizable and above 12 non-cognizable or make any alteration in that in case the age is raised?

A. I think the same procedure may continue.

**Q.** Would you make marital cases compoundable with or without the sanction of the court in order to reintroduce good relations between the husband and the wife?

**A.** In fit cases chance must be given for compounding with the sanction of the court.

**Q.** At present the practice is that cases under 12 go to the Sessions and cases above 12 go to the Magistrate. In order to expedite the disposal of cases and inspire greater public confidence would you be in favour of constituting a matrimonial court for the trial of these cases?

**A.** It would be desirable.

**Q.** Would you associate two non-officials with the magistrate?

**A.** Certainly.

**Q.** Would you associate them as jurors, assessors or co-judges?

**A.** As co-judges.

**Q.** So that they may have a chance both of assessing the guilt and the sentence.

**A.** Yes.

**Q.** Are you also in favour of having a system of registration of marriages, that is to say, reports of all marriages being made to a prescribed authority with the names and ages of the marrying parties?

**A.** That will facilitate matters. There will be some material which can be checked with the register of births.

**Q.** Who should maintain this register of marriages?

**A.** Some proper competent authority.

**Q.** The authorities that maintain the register of births and deaths or some special authority?

**A.** I should have special authorities for that.

### **Written Statement of Mr. YANNIA NADAR RAMASWAMI, Cosmopolitan Club, Virudhunagar, Ramnad District.**

Thanks to the ever advancing Materialism of the West, the old Spiritualism of the East is slowly giving way to the new progress. The Occident tribes to conquer Nature: the Oriental—owing to his contact with his western brother—wants to follow him and to enjoy all mundane pleasures. Naturally the outlook of our country—the ancient Spiritual Home—is slowly transformed. Hence the cry has arisen for change, progress in every direction.

Particularly in South India, the present age can be called the age of Reason. Every existing order is questioned. Does it suit with human reason? If not do away with it. Time-honoured institutions, which might have served their purpose well in the past, are to be summarily dealt with, if they do not yield to the new conditions. The roots of blind superstition have been shaken; the mercury of sound reason has been poured into the stems.

It must be said to the credit of the great non-Brahmin movement that the masses were aroused of their stupor, and enlightened to seek for onward march. Within two years, thanks to the indomitable courage, and magnetic personality of a single soul, a great revolution in the ideals and ideas of the southern people has been created. We may safely assert that the people have been fairly educated as to the need of entire change in the existing social order.

It cannot be denied that the present day temples are the citadels of worst bigotry and conservatism. The fact, however eagerly the mass welcomed the Religious Endowments Act of the Rajah of Panagal, will clearly point



out which way the wind blows. People thirst for legalised reform to obliterate all sorts of unnatural barriers that block the development of human intellect. God's creation cannot be extinguished but man's creation can be extinguished and changed.

Need we say the real people who are the bulwark of the land have welcomed Mr. Sarda's Bill.

### Answers.

1—2. The general public are not aware of the existence of such sections in Indian Penal Code or find it troublesome and fruitless to avail of the same. The attendant worry and unpleasantness in a rape case is too well known. So such cases are not brought into court. Even time-honoured communal tribunals do not take stringent measures against the accused. And the husband of raped woman has to spend the remainder of his life together in spite of the exposure.

So advance has to be made on the present law.

The exception clause in section 375 must be deleted:

3. Rape is not frequent in our parts. Seduction may be said to be rampant. The Amendment of 1925 cannot be said to have been beneficial.

Parents and others who assist in these illegal affairs must also be brought under the purview of the Criminal law with equal punishment. Rewards may be awarded to those who can report and prove on pain of punishments, such cases. Societies may be subsidized for propaganda work to prevent these crimes.

4. In this direction also the Amendment has proved futile.

To prevent cohabitation within the prescribed age-limit, we must show when they can be on the safe ground for such things. For that the following are suggested:—

(a) The Age of Consent must be raised to 14 and 18 respectively.

(b) Child marriages below 14 must be penalised.

(c) As we have Births and Deaths Registrars in towns we may appoint Puberty and Marriage Registrars.

(d) The fact of attainment of puberty must be reported and a certificate obtained for with the date of birth stated therein. This certificate must be produced before the Marriage Registrar who will issue a certificate thereon for the marriage.

(e) Only after full 12 months after puberty a marriage can legally take place.

5. Generally, girls in our parts attain puberty between 12 and 14. Cases between 10½ and 12 may be said to be frequent. But cases above 14 are rare. No particularity in castes.

6. Yes. Only among the Brahmins and Kasikarachties cohabitation is strictly after puberty.

But among the richer classes of other castes, cohabitation is common before puberty and before the girl completes 13 years and after puberty say after 15 days.

In poorer classes marriage takes place long after puberty. No case has come to court. It is custom in these parts and not treated as crime.

7. Only the Brahmans marry their girls early before puberty, according to their traditional custom; otherwise they will be excommunicated. But now as civilisation advances, no such ostracism is taking place or it is conveniently forgotten. And there is no injunction of whatever authority with regard to any other single caste.

8. Garbhadan ceremony is performed only by the Brahmans. And it takes place, after puberty on the date of nuptials just before cohabitation. Garbhadan is foreign to all other castes of this part of the country.

9. No. I don't consider attainment of puberty to be the indication of physical maturity. I think it will be sufficient (before we take a sudden leap) to fix the marriageable age at 14 years and not less than 12 months after puberty.

10. Only after 15 years of age a girl can be regarded to be able to grasp the purpose and responsibility resulting from marriage.

11. Yes. I have heard and come across many cases.

Age.	Post or anti-puberty.	Result.
10½	Post-puberty . . . . .	Gonorrhœa. Child ill.
11	Anti-puberty . . . . .	Syphillia. Hard chancre.
12	Do . . . . .	Mental fright.
12	Do. . . . .	Attempted suicide and constitution weakened.
12	Post-puberty . . . . .	Abortion. Maternal death.
13	Do. . . . .	Mental derangement during night.
13	Anti-puberty . . . . .	Hearing power failing at every confinement.
13	Do. . . . .	Suicide.
13	Post-puberty . . . . .	10 Abortions, stillbirth, infantile mortality. Weak child.

12. Yes. The early consummation and early maternity have paid a heavy roll of maternal and infantile mortality. Our people are now realising that only in consequence of early marriages our intellectual and physical power is deteriorating deplorably.

13. Yes. There is a general feeling among all classes that early marriages should be stopped.

Since the Sections 375 and 376 are not enforced upon the minds of the public and owing to lack of efficient physical and moral training and sufficient medical supervision, rape or seduction is common among boys. This causes mental and physical exhaustion. A marriage, at this age leads to the untimely death of the husband. The girl, at an age when she has not yet ripened to realise her position in the world becomes a widow. In our country innumerable social tangles prevent widow re-marriage. So to be saved from such a miserable plight there is a general cry for release legislation.

14. Yes. Out of vanity (being rich) and out of ignorance. Since inter-caste marriage system does not obtain in our Indian Society, brides have to be sought out from one's own community and hence the dearth of bridegrooms also is an important factor driving the parents to marry their girls as early as possible. In poorer classes early marriage is not common at all.

15. There are difficulties in determining the age of the girls. How to remove the difficulties, may be referred to answer No. 4.

16. The difficulty in determining the age will be materially reduced if the Age of Consent is raised to 14.

20. We prefer penal legislation fixing a higher Age of Consent to be more effective and in consonance with the public opinion.

21. Since this heterogeneous country is cowed down by superstition and ruled by alienism, social reform by education and propaganda cannot and will not make any appreciable advance for decades. Hence through strong and stringent penal laws alone can we obtain the object in view. Our social customs are the accursed impediments in the path of progress.

**Oral Evidence of Mr. YANNIA NADAR RAMASWAMI, Cosmopolitan Club, Virudhunagar, Ramnad District.**

(Madurai, 29th November 1928.)

*Chairman:* Are you connected with the Cosmopolitan Club?

A. Yes.

Q. What office do you hold?

A. I am a member of that Club.

Q. What is the object of that Club?

A. It was started as a recreation club. It is taking active part in all social matters.

Q. Has this written statement been considered by the Club?

A. A committee consisting of two members, secretary and myself drafted that reply.

Q. What is the number of members of your club?

A. There are 40 members.

Q. Both Brahmins and non-Brahmins?

A. Membership is open to all, but largely it consists of the Nadar community.

Q. Can you tell us whether early marriage is practised among any of the communities inhabiting this part of the country?

A. In my own community early marriage is practised.

Q. What is the general age of marriage?

A. Between 13 and 16.

Q. When does consummation take place?

A. Soon after puberty.

Q. Immediately after puberty or a year or so after?

A. Within a month or so.

Q. When do the girls generally attain puberty?

A. Generally between 12 and 14.

Q. May I take it that consummation never takes place before puberty but marriage often takes place before puberty?

A. Yes.

Q. Have you come across any evil consequences as a result of early consummation and early maternity?

A. Yes.

Q. In answer to question No. 11 you have mentioned several cases of anti-puberty and post-puberty consummation resulting in various diseases like abortions, stillbirths, syphilis, etc. You have mentioned three cases of 12, and four cases of 13. Did any of these cases go to court?

A. No.

Q. When did they occur?

A. Within the last 6 years.

Q. In what district did they occur?

A. Ramnad District.

Q. Was no case reported?

A. It is the usual custom in that place to have early consummation.

Q. What age would you recommend for marriage, if there is to be legislation?

A. 14.

Q. Do you think that will be acceptable to the people generally, Brahmins and non-Brahmins?

A. I can only speak of non-Brahmins. They will accept it. I can't say about Brahmins.

Q. What age would you recommend for consent in marital cases?

A. 14.

Q. Do you think 14 will sufficiently protect the girl?

A. In the present state of social reform I think it would do.

Q. Would you recommend 14 for consent in marital cases as a first step?

A. Yes.

Q. What would you recommend for extra-marital cases?

A. I may raise it to 18.

Mr. Mudaliyar: In your community you say early marriages are practised. At about 12 or 13 girls are married and consummation takes place soon after puberty, within 3 or 6 months?

A. Yes.

Q. You consider it a grave danger to your community.

A. Certainly.

Q. Do you want them to be stopped?

A. Must be stopped.

Q. By legislation fixing the minimum age of marriage and by legislation raising the age of consummation?

A. Yes.

Q. Since when has this system of early marriage been operating?

A. For the last 15 or 20 years.

Q. Is it due to the idea that people should copy any other sect or any other caste in this matter that this custom of early marriage has come about?

A. In poorer classes because they copy and in rich classes out of vanity.

Q. What is the vanity? Is it the desire to imitate what they consider higher castes?

A. They want to spend as much money as possible to advertise that they are rich.

Q. Do they come up to 15?

A. If a suitable bridegroom is available they marry at once.

Q. What is the reason that within the last 15 or 20 years early marriages have come in your community also? Is it a desire to look big in the social scale?

A. Yes, I may say so.

Q. But Nadars are now trying to assert themselves and show that they can manage their own affairs. Is it so?

A. Yes.

Q. Are you also carrying on social propaganda in your own community to make them realise that they are a class like any other?

A. Yes.

Q. Don't you think that social reform is a sufficient incentive to get rid of this very recent innovation in your community? Don't you think you can depend upon social propaganda to bring about the state of affairs which existed 20 years back?

A. By temperament they are very conservative and you cannot force them up by mere propaganda. We are a law-abiding people and fear law.

Q. Do you think that social propaganda will be very slow in bringing about the desired result and is that why you want to hasten that by legislation?

A. Yes.

Q. Have you had several Nadar conferences?

A. Yes.

Q. Is there an annual big Nadar Federation of your community?

A. Yes.

Q. Was this question ever discussed?

A. Every year they have passed resolutions that early marriage should be stopped.

Q. Are those conferences largely attended by members of your community?

A. Yes.

Q. At those federations have resolutions been passed?

A. Yes.

Q. What is the age that they have advocated?

A. They have not fixed any age, they have said that early marriage should be stopped.

Q. Are those conferences fairly representative of the community?

A. Yes.

Q. May I take it that this idea of fixing a higher Age of Consent and fixing the minimum age of marriage will be regarded as a good thing by the members of your community?

A. With rare exceptions, yes. As a first step we may fix 14 and ultimately you can go up to 16. You should not have one sudden leap.

Mr. Mitra: In answer to question No. 20 you say, we prefer penal legislation fixing a higher Age of Consent to be more effective. How do you think it will be more effective than the marriage law?

A. It will be more acceptable.

Q. Don't you feel that once a girl is married at an early age amongst Hindus it will be very difficult to make the law effective? Everybody is more or less interested in concealing it.

A. I want to fix the age of marriage and the Age of Consent both at 14.

Q. In paragraph 3 you suggest that rewards may be awarded to those who report a case. Don't you think that in that case some untrue cases may be reported and there may be unnecessary harassment.

A. I have it on pain of punishment.

Q. In paragraph 4 you speak of puberty registers. What do you mean by that?

A. I mean when a girl attains puberty it should be reported.

Q. Do you think that society will accept such an obligation?

A. Then how to know that a certain girl has attained puberty.

Q. Will it be feasible?

A. Otherwise you can't know when the girl attains puberty.

Q. What are these richer classes that you mention in paragraph 6 where cohabitation takes place before puberty and before the girl completes 13 years? Are they Nadars also?

A. They are. Any other caste except the Brahmins and the Kashikara Chetties.

Q. From your experience you find that these girl mothers are not of good health, they lose all their vitality.

A. They do.

Q. In paragraph 7 you say, they have pre-puberty marriage because they are afraid of excommunication. Don't you think if the law is passed it will be a good excuse for them and they will accept it?

A. They will accept.

Q. Is there any dowry system?

A. It is only among the Brahmins.

**Q.** If a law is passed prohibiting early marriage the evils of the dowry system may be mitigated?

**A.** Yes.

**Mr. Shah Nawaz:** Do you think that if marriage is consummated at 14 the girl would be fit for becoming a mother at 15?

**A.** I have fixed that age only as a step.

**Q.** Would you stick to 14 or go up to 15 or 16?

**A.** I would prefer 15.

**Q.** When you fix the minimum age of marriage, you must understand that there will be good deal of opposition from the orthodox. Do you think they will acquiesce in it?

**A.** They are a minority.

**Q.** You think the minority must go to the wall. Do you think the Brahmins will keep quiet?

**A.** I think they are in need of it. They have come to realise that child-marriage is a bad custom and they want to raise the age.

**Q.** Do you think there will be no opposition from the side of Brahmins?

**A.** There will be opposition, but it will subside.

**Q.** Are you of opinion that in the teeth of opposition even this legislation must be had?

**A.** If it is for the good of the general public it must be passed.

### **Oral Evidence of Mr. A. V. SITA RAM AIYAR.**

(Madura, 29th November, 1928.)

(The witness talked in Tamil.)

**Chairman:** You belong to the Sourashtra community?

**A.** Yes.

**Q.** What business are you doing?

**A.** I am doing social propaganda work.

**Q.** Have you got any other business or profession?

**A.** I have got no other profession except social propaganda work.

**Q.** Are you employed anywhere?

**A.** I have got independent means.

**Q.** Has any meeting been held of your community to consider this matter?

**A.** At the 6th Conference of the Sourashtras held in 1926 at Madura, I brought in a bill supporting widow remarriage and it is still pending.

**Q.** Who was the President of that Conference?

**A.** Nannayar of Urayar.

**Q.** Was the age question discussed?

**A.** It was urged at that conference that it was better to raise the age of marriage than to discuss the question of widow remarriage and the matter was left for one year to see the progress.

**Q.** Is any further conference going to be held this year or hereafter?

**A.** There is a conference to be held, the 7th Sourashtra Conference in December at Madura.

**Q.** Is Madura the headquarters of this community?

**A.** Yes.

**Q.** What is your population in the Madras Presidency?

**A.** 1 lakh and 20 thousand.

Q. How much is in Madura district?

A. 43 thousand.

Q. How much in Ramnad district?

A. One thousand.

Q. Will you kindly tell us what is the usual age of marriage in your community?

A. Between 11 and 12. At 14 also girls are married.

Q. Girls are married even after puberty in your community?

A. It is not a custom to marry after puberty but instances do occur when marriages take place after puberty. They conceal it and do it.

Q. Is it considered reprehensible to have marriage after puberty?

A. It is not.

Q. Then why do they conceal puberty?

A. Because of the Purohīts who are troubling them. They say that such a thing is bad, that it is against their tradition.

Q. Is garbhādan ceremony observed in your community?

A. Yes, it is.

Q. What is the usual age at which consummation ceremony is performed?

A. If the stars are good they do it on the 5th day after puberty. Otherwise they postpone it to some auspicious day. It would not go beyond two years. In the majority of cases it is celebrated immediately after puberty.

Q. Have you come across any instances in which girl mothers or the children have suffered in consequence of early consummation or early maternity?

A. There are some instances.

Q. Can you tell us those instances if they are within your personal knowledge without giving any names?

A. Yes.

Q. When did it occur?

A. 2 or 3 years ago.

Q. What was the age of the girl at marriage?

A. 9.

Q. What was the age of the husband?

A. 16 or 17.

Q. At what age was the marriage consummated?

A. At 11 or 12.

Q. What was the result?

A. Both the parties quarrelled with each other. The girl did not like to live with the husband.

Q. Are they still living separately?

A. After one year both parties became friends. Before that they were regular enemies. After that they began to live as husband and wife.

Q. No forcible consummation or consequent injury to the girl took place?

A. There was a criminal complaint filed against the husband.

Q. Resulting in what?

A. The result was that the boy was ordered not to molest the girl till she gave him consent.

Q. What is the second instance?

A. There are similar other cases

Q. These are cases in which the girl of a tender age refused consummation. I want to know cases in which consummation took place and there was injury either to the girl or to the progeny?

A. In those cases they have had injuries and the offspring were simply weaklings.

Q. How many cases do you know of that kind?

A. Approximately in 2 per cent. of population cases of that kind happen.

Q. Will you give any case in which the child has suffered?

A. The offsprings are generally weaklings and die soon.

Q. In view of this fact, what remedy do you propose?

A. I am for raising the age of marriage and I am against raising the Age of Consent.

Q. What according to you is the proper age for marriage?

A. 16 for girls.

Q. And if marriage below 16 takes place do you suggest that the parents of the girl and the boy should be punished?

A. It should be so.

Q. Would your community agree to it?

A. The usual age of marriage is 14 or 15. The proposal is to raise it by one year only. I don't think that they will object to it.

Q. In order to support that legislation would you also have a law fixing the Age of Consent?

A. It is not necessary.

Q. Suppose a man breaks the marriage law, consummation may follow, unless there is a law fixing the age of consummation?

A. I have got sacred objection to raising the Age of Consent. Intercourse between husband and wife should be outside the purview of law.

Q. But if the marriage law is broken consummation may follow, and the girl may suffer and the future progeny may suffer.

A. The parents of the girl should take care. There should be an obligation on the parents to prevent consummation.

Q. When they have allowed marriage how would they prevent consummation?

A. The father should be punished.

Q. If there is a law fixing the age of marriage at 14, would you recommend the Age of Consent law?

A. I am against fixing the Age of Consent.

Q. Would you fix the same age for consummation and marriage?

A. I have no objection to both being fixed at 16.

Q. Suppose the age of marriage is fixed at 14 would you agree to 16 as the Age of Consent?

A. I am against it.

Q. If the age of marriage is fixed at 14, would you fix the Age of Consent at 14?

A. It is too early for consummation.

Q. Suppose there is no marriage law would you agree as a next alternative to the Age of Consent?

A. How are we to decide whether there has been any consummation.

Q. Firstly by childbirth and secondly by any injury that the girl may receive?

A. It is not desirable.

Mr. Shah Nawaz: Do Sourashtras claim to be Brahmins?

A. They are Brahmins in truth.

Q. Do they follow Brahmin customs?

A. They are following.



**Q.** Is it a fact that girls marry boys living in the same place, i.e., Madura?

**A.** It is generally so.

**Q.** Do you think the Sourashtra community will accept your opinion?

**A.** A large portion of my community will accept my opinion.

**Q.** Do you think it is not against shastras?

**A.** Shastras at the present age have been set at naught.

**Mr. Mitra:** Is there dowry system amongst your community?

**A.** Yes.

**Q.** Don't you think that if by law the marriageable age is fixed at 16, the dowry will decrease?

**A.** It will not decrease. In my community the dowry amount is fixed at Rs. 61-1-0.

**Q.** What is the reason for this?

**A.** That is the practice rather.

**Q.** Though your general custom is to marry your girls early, if for any circumstance, any girl is married late, is there excommunication in your community?

**A.** Yes, here is. But still people at heart feel for a change.

**Q.** So if by law the marriageable age is fixed at 15 or 16 it will be a blessing to them. Is it not so?

**A.** Yes, it will be a blessing to them. It is with this idea that I propose this.

**Q.** So may I take it that all the people will heartily accept this, though the orthodox people may formally protest?

**A.** Yes.

**Written Statement, dated the 25th November 1928, of Mr. T. Y. UMAMAHESWARAM PILLAI AVL., B.A., B.L., President, Taluk Board, Tanjore.**

1. Yes; at any rate, among the educated classes in the country.

2. (1) I can find no justification for the retention of the law of the Age of Consent as it is; the literate section amongst the Brahmans assume a false pose of orthodoxy and raise the cry that religion is in danger. This literate class has given up the religious life enjoined upon them in the shastras; and their lapses from religious injunctions are becoming a matter of course; neither their religious heads nor the orthodox section visit these recalcitrants with displeasure; post-puberty marriages are becoming more numerous amongst the Brahmans: the contracting parties designedly suppress the fact of maturity and formally celebrate the maturity ceremony after the marriage is solemnized; the priests who officiate in such marriages and the orthodox section connive at such violations and participate in the social functions relating to those marriages. The rationale of the orthodox view is unmeaning and it is being considered to have become a superstitious religious belief. I am of opinion that the religious texts enjoining early marriages have fallen into desuetude and it is becoming obsolete. The literate section among the Brahmans having lost faith in the tests that enjoin on them a religious life, and the bulk of the non-Brahmin community constitute together a majority of the population and they certainly prefer post-puberty marriages. Post-puberty marriage is the rule amongst the high caste non-Brahmin communities; almost all the Salvite Vellalas, Idaiyars, Naidus, Agambadys, Kallars Maravars, Kammalars (viz., the Visvakarma Brahmans) and all the labouring classes of the Hindu population observe post-puberty marriage; but as some people belonging to the so-called high caste amongst the non-

Brahmins are beginning to immitate the Brahmins and contract early marriages, this kind of legislation has become urgently necessary.

(2) An advance on the present law is urgently necessary. The effect of the amendment of law made in 1925 has not been appreciable, though it has stirred people's minds and made them realize the need for raising the Age of Consent. Early marriages have led to a general deterioration of the physique of the youth of the country and have contributed to the increase in the number of child widows. Indian girls have such delicate health that maternity even at 16 is in many cases attended with danger to life and in others, it shatters their health permanently.

3. Crimes of seduction or rape are happily not frequent in this part of the province. The amendment of the law made in 1925 does not appear to have effected any perceptible change in the conditions obtaining in this district. There does not appear to have been any increase in cases of seduction or rape.

4. (1) This is difficult to answer. Cases of cohabitation with husbands within the prescribed age limit do not generally come to light. The aggrieved parties are not likely to bring such cases to court; and as the age limit has been raised only by a year, the age of girls at the time of consummation might be over-stated with great ease and the least chance of exposure.

(2) It has certainly stimulated public opinion and I believe that several of those that are loud in protest against the reform on public platforms own secret allegiance to the reformer's ideals, but this class of people do precious little to educate the mass or stimulate public opinion.

(3) Men, chiefly widowers, want full-grown brides and the number of parents inclined to put off the marriage of their girls to as late an age as possible, is steadily on the increase, due to more than one cause. It usually takes some time for parties to arrive at a settlement regarding the "business" aspect of their marriage proposals, while the future husband often waits for a further offer of 'Vara Dakshinai' to come his way. The bride's parents are keenly on the look out for an offer from a party who is less exacting about 'the bridegroom's price' besides satisfying other necessary conditions. Concern about the life and health of girls on the part of their parents, and about the education of boys on the other, have also had something to do with the putting off of marriage of girls beyond 13.

The amendment of 1925 has not been effective in protecting married girls; as detection is seldom possible. The three ways suggested in the questionnaire have merely a tendency to produce the expected result and I do not believe that much good has come out of it.

(4) (a) I would therefore (1) raise the Age of Consent to 16 and prescribe a deterrent punishment for lapses; and (2) fix the marriageable age for boys at 21 years and girls at 16 years and declare marriages below the said ages invalid.

(b) If this proposal is not found to be feasible, a system of licensing consummation of marriages should be prescribed and the bride's parents or guardians, the husband, and if the husband is a minor the husband's parents or guardians and the priest, if any, that officiate in the ceremonies should all be penalised. But such drastic measures are likely to be viewed with disfavour and annoyance and may be kept over for adoption if necessary and feasible, sometime in the near future.

5. The usual age at which girls attain puberty differs with different castes or communities. The girls of higher castes not accustomed to active outdoor life attain puberty at 12 and even less, while those of other castes attain puberty usually between 14 and 16 years of age.

6. (1) No.

(2) Yes; among Brahmins and a few other small communities. The non-Brahmins who comprise about 80 per cent of the population do not tolerate it.

(3) Yes; if the girls of the Brahmin and other communities that allow pre-puberty marriages attain maturity before they complete 13 years. Very seldom such cases come to Court.

7. No, so far as I am aware. It appears to my mind to be a superstitious belief.

9. No. The girl must be 16 or it should be two years after puberty when she might be considered to have attained physically maturity and got for consummation.

10. Considering the ignorance and illiteracy of the girls of the country and their utter dependance on the male sex, 18 might be fixed as the age at which she would be competent to give an intelligent consent to cohabitation with a due realization of consequences.

12. Early consummation and early maternity are largely responsible for high maternal and infantile mortality in the country.

13. Yes. The Leagues of non-Brahmin youth, the non-Brahmin party (The South Indian Liberal Federation) and Social Reform Organizations have expressed themselves in favour of the extension of the Age of Consent in marital and extra-marital cases since the amendment of the law in 1925.

14. Ignorant and unenlightened women may probably favour early consummation of marriage for their children but educated and enlightened women have effectively organized themselves and are weaning ignorant mothers out of their suicidal customs.

15. Stringent care in registering births would remove or minimise difficulties, if any, in arriving at the correct age.

20. Prohibition of marriages before a certain age would be more effective than fixing a higher Age of Consent for marital cases. I would propose 16 years for girls and 21 years for boys.

21. The progress of social reform by means of education and social propaganda has so far been very slow in spite of the whole-hearted zeal and work of several reformers in the country and I am of opinion that in the present state of the masses, compulsion by legislation will alone effectively rouse them to their senses and put them on the path of progress.

### **Oral Evidence of Mr. T. Y. UMAMAHESWARAM PILLAI, B.A., B.L., President; Taluk Board, Tanjore.**

(Madura, 30th November 1928.)

R. B. Pandit Kanhaiya Lal: Are you president of the taluk board at Tanjore?

A. Yes.

Q. How long have you been president?

A. For 8 years.

Q. You are also practising as an advocate?

A. I am first grade pleader and am practising since 1907.

Q. Have you been connected with any social or religious movement?

A. I am Vice-president of the Seva Sadan Mahasangham, and am connected with the Southern India Liberal Federation and I am President of the Karamdai Tamil Sangham.

Q. To what community do you belong?

A. I belong to the community of Vallalas.

Q. What is the usual age of marriage among your community?

A. It is after the attainment of puberty.

Q. When is the marriage consummated?

A. Very often two or three years after the attainment of puberty.

Q. What about other communities—have any communities in your part of the country early marriages?

A. A very small section of Tondamandlam Mudaliars. It is a Shaivite community and the richer section of it are imitating the Brahman ways.

Q. What about Brahmans?

A. Brahmans usually observe pre-puberty marriages.

Q. At what age they generally marry?

A. At about 12 and a richer section among Tondamandlam do like Brahmans.

Q. When is the marriage consummated?

A. Immediately after puberty.

Q. Have you noticed any evil results accruing from early consummation or early maternity?

A. Certainly, infantile mortality, puny children and child widowhood are the evil results.

Q. Can you give us any instances in which girls have suffered?

A. Usually at the time of childbirth they have to call in the aid of doctors and forceps have often to be used. Childbirth is becoming a travail.

Q. How many instances of that kind have come to your notice?

A. Quite a good number among the Brahmans.

Q. At what age do the girls give birth to children?

A. Between 13 and 15.

Q. What remedy would you apply? Would you have a law fixing the age of marriage or a law fixing the age of consummation?

A. An age for marriage is very necessary.

Q. What age would you recommend for marriage?

A. 16 for girls and 21 for boys.

Q. Do you think it will be acceptable to the orthodox community?

A. Of course orthodox community will object; but I think even among people who object to this legislation, there are some who are observing post puberty marriages.

Q. You know the strong feeling amongst the Brahmans for pre-puberty marriages. In that case do you think they would be willing to postpone marriages up to 16 years?

A. As a matter of fact the literate section of the community have no pre-puberty marriages.

Q. Do you think there will be very intensive opposition to the measure?

A. I do not think there will be real opposition.

Q. Would an age of 14 for marriage serve the purpose?

A. I would accept it as a compromise.

Q. Would you also have a law fixing the age of consummation to support the marriage legislation?

A. Yes, 16 must be the age for consummation.

Q. If the marriage age is fixed at 14, would you have 14 or 16 as the age for consummation?

A. I would like to have both at 16; but if it is not possible to have the marriage age at 16, the age of consummation should be fixed at 16.

Q. Would you make the offence cognisable or non-cognisable in marital cases?

A. It must be cognisable offence up to 16.

Q. Would you as a safeguard recommend that the enquiry should be conducted only by a superior police officer like the Superintendent of Police or Inspector of Police?

A. Yes, otherwise it may lead to harassment.

Q. Would you further recommend that in such cases the preliminary enquiry should be made by the Magistrate before taking any action?

A. Yes, I would prefer it.

Q. Would you prefer that there should be matrimonial courts for the trial of such cases consisting of two non-officials and a Magistrate to expedite the trial and to inspire better public confidence?

A. Yes, it would be better.

Q. Would you be able to find two gentlemen in every district fit to be co-judges?

A. Yes.

Q. It has also been suggested that marital offences should be made compoundable so that in suitable cases the Magistrate may sanction the compounding, as otherwise there is a danger that the husband might discard the wife and might take on another wife and the life of the girl wife may be ruined.

A. Prosecutions do not sever marital ties.

Q. But they create estrangement between the husband and the wife, because the wife will have to give evidence against the husband.

A. It may be made compoundable with the sanction of the court in suitable cases.

Q. Would you make it compoundable irrespective of the age of the girl, whether she is under 12 or whether she is over 12?

A. It must apply to all marital cases irrespective of age.

Q. In order to find out whether the law has been broken, would you like to have a system of registration of marriages?

A. That will help in the detection of offences.

Q. Who should maintain these registers of marriages?

A. Special marriage registrars will have to be appointed.

Q. Would it not be possible to require the agency that is now maintaining the register of births and deaths to maintain these registers also?

A. No, that is not efficient.

Q. Would you recommend that revenue authorities should be entrusted with that work?

A. If special marriage registrars cannot be appointed this should be entrusted to the tahsildar or executive authority.

Mr. Kadri: In reply to question No. 1 you say that among the educated classes in the country there is dissatisfaction. Among these educated classes do you include Brahmans?

A. Yes.

Q. In reply to question No. 2 you say that post-puberty marriages are becoming more numerous among the Brahmans. Can you say what is the percentage of post-puberty marriages?

A. I mean all the members of the Bar and educated men are in favour of post-puberty marriages. The boys too prefer grown up girls.

Q. Have you studied the sastric texts?

A. No.

Q. You say that they are following superstitious religious beliefs?

A. Because they are themselves violating rules and all the people are assisting them and there is no strong public opinion against these violations.

Q. You say in paragraph 2 that all the labouring population have post-puberty marriages. What will be the percentage of these castes to the total population?

A. They form the bulk of the population.

**Q.** Would I be justified in saying that 90 per cent. of the Hindus in this Presidency have post-puberty marriages?

**A.** Yes.

**Q.** In paragraph 3 you say that crimes of seduction and rape are not frequent in this part of the country. We have been told that there are several cases of seduction of girls by missionaries and by labour recruiting agencies. Is that a fact?

**A.** I do not believe that. There were about half a dozen cases in Kombakonam town.

**Mr. Mudaliyar:** Have you not known any cases of seduction by missionaries or by labour recruiting agencies?

**A.** There may be some stray cases.

**Mr. Kadri:** There is a general complaint that cases of cohabitation with husbands before the prescribed age do not generally come to light. Do you think such cases do occur?

**A.** At about 12 the girls attain puberty and there is cohabitation soon after puberty.

**Q.** Do you think there are many cases of cohabitation taking place before a girl is 13?

**A.** If you take the whole body of Hindus the cases will be very few.

**Q.** Do you think the consummation ceremony takes place among all communities among the Hindus?

**A.** It takes place amongst most of the higher classes.

**Q.** You have said that at certain places certain social reform organisations have expressed themselves in favour of the extension of the Age of Consent in marital and extra-marital cases since the amendment of 1925. Can you tell me at what meetings or conferences these bodies expressed their opinion?

**A.** I will send copies of the resolutions.

**Mr. Mudaliyar:** What was the resolution passed in the Liberal Federation about this matter?

**A.** There was a resolution passed in favour of post-puberty marriages.

**Mr. Kadri:** You say that the system of registration of births and deaths is not satisfactory. Can you make some practical suggestions for improving the system of registration of births and deaths?

**A.** So far as municipal towns are concerned I think it is satisfactory but in villages the duty must be entrusted to the Union Board president?

**Q.** How many Union District Boards there are in Tanjore District?

**A.** 3. They have got all the necessary staff. They have got bill collectors and all conservancy staff. If the duty of registration of births is entrusted to them it will be more satisfactory.

**Mr. Shah Nawaz:** In your statement you say that some of the communities have taken to imitating the Brahman custom of pre-puberty marriages. Will you tell me the names of those communities?

**A.** The richer section of the Mudaliar community, some richer people among the Chettis, and Vellalas have adopted the Brahman customs.

**Q.** What about Sourashtras?

**A.** They claim to be Brahmans.

**Q.** Among them also is the number of pre-puberty marriages in the increase?

**A.** They do not condemn post-puberty marriages.

**Q.** I want to know whether these communities that you have mentioned celebrate pre-puberty marriages as a matter of course or some of them were celebrating post-puberty marriages but now they are having pre-puberty marriages?

A. Some of them have adopted their original ways of post-puberty marriages.

Q. Is the number of these communities considerable?

A. No.

Q. What would be the total percentage of those who have begun to imitate the Brahmans to the total number of the community?

A. So far as the Mudaliar community is concerned I should put it at 10 per cent. but among the Sourashtras it is more.

Q. Is it on the increase?

A. Yes.

Mr. Mitra: Do you find from your experience that girls of Brahmans and Vaishas attain puberty earlier than other castes?

A. Yes.

Q. The orthodox classes amongst Brahmans usually have pre-puberty marriages?

A. Yes.

Q. Do they quote any scriptures in support of it?

A. I do not know.

Q. Do you think it is a custom?

A. Yes.

Q. Do you find that there is a dowry system amongst them and on account of financial stress they have to contract marriages later?

A. Yes, because they find it difficult to find bridegrooms.

Q. If this pre-puberty rule is relaxed there will be much mitigation of the dowry system. Even those Brahmans will bless this legislation because they will find some excuse?

A. Yes.

Mr. Mudaliyar: You say that 90 per cent. of the orthodox people have adopted the system of post-puberty marriages.

A. Yes.

Q. And only a small section of non-Brahmans community are trying to imitate the Brahmans.

A. Yes.

Q. Among the Brahmans even who are opposed to reform this post-puberty marriage coming in vogue though perhaps secretly?

A. Yes.

Q. Are orthodox Brahmans as a whole opposed to any legislation on this matter?

A. Yes.

Q. Would you not feel that there is no real necessity for legislation on this matter?

A. I think there is necessity.

Q. What is the object—is it to preserve the race or nation or to preserve the individuals? From what point you advocate legislation? There ought to be a case made out for the State intervening in domestic concerns?

A. The progeny is deteriorating.

Q. If 90 per cent. of the orthodox do not observe early marriages and if the entire portion of the Mohamedans and Christians do not observe it then 2 or 3 per cent. of the population in the whole will be affected. Do you think that for this 3 per cent. the State should have all these coercive powers and legislate to remedy this evil?

A. There is a tendency on the part of others also to follow the Brahmans.

Q. Therefore do you want it only to check the tendency among other communities who are imitating the Brahmans and getting their evil ways?

A. Yes.

Q. Supposing legislation is confined to non-Brahman communities alone. Supposing we say that marriage shall not take place before 15 or 16 among the non-Brahman Hindus, would that not satisfy you?

A. When once it is conceded to be a national evil, however small the community may be, it is the duty of the State to check the evil?

Q. If it is a small community that is concerned, it cannot be a national evil. The Brahmins are so much against it, the uneducated people and those educated people who practise it in secret object to it and all say that marriage is a sacrament and that you should not have a law for it. In these circumstances why should we not confine the remedy to those classes who want it?

A. I say there is a growing question among the Brahmins who want to contract post-puberty marriages but they are afraid of orthodox opinion.

Q. But at any rate in Madras that section has not made itself vocal. Why should we not have legislation confined to all classes except the Brahmins?

A. I consider pre-puberty marriages and early consummation to be a social evil and I want to put it down.

Q. Then you want to save the Brahmins against themselves.

A. It comes to that.

Q. But the evidence has been very clearly put before us and the Madras evidence is very strong on the point that Brahmins are the most intellectual class among the populations of India, that it can well take care of itself, it is one of those communities who do not desire any protection at the hands of other communities especially when those communities are less advanced and less intellectual than the Brahmins themselves. Don't you think there is force in that argument?

• A. I do not concede for a moment that it is the most intellectual community.

Q. At least it is the most educated community.

A. Yes.

Q. If you once make out that 90 per cent. of the Brahmins have late marriage can you justify non-Brahmins interfering and legislating for them?

A. If that be the argument then there should be no section in the Indian Penal Code.

Q. That deals with criminals and it is the concern of the State but Brahmins have their own marriages in their own way, criminals interfere with innocent men therefore there is justification for the State entering and making laws?

A. If an influential section of the Indian population is going to degenerate themselves it would be a burden on others.

Q. Don't you think that this system has been in existence among them for hundreds of years. Would you object as a non-Brahmin if legislation is confined to non-Brahmins?

A. I would not object.

Mr. Shah Nawaz: If we take your point of view as you give in your statement, don't you think Brahmins want reform?

A. They do want it.

Q. Supposing we were to exempt the Brahmins don't you think they would be always influencing the other castes?

A. Yes, others have a tendency to follow the Brahmins.

Mr. Mudaliyar: But once legislation is made would that reason disappear?

A. Yes.



**Mr. Kanhaiya Lal:** Is it not desirable that we should have a common legislation and that no section should be exempted from the law that we make?

**A. Yes.**

**Written Statement, dated the 29th August 1928, of Mrs. HAMSAM-MAL DORAIKANNU MUDALIAR, Municipal Councillor, Madura.**

I am of opinion that an advance on the present law of the Age of Consent will materially help the physical as well as the intellectual progress of the people. The age of 14 is too early for consummation. Girls of that age are unfit to bear the burden of motherhood. Child marriage and early maternity have to my knowledge helped towards the physical degeneration of the people. A girl must at least complete her 16th year to justify consummation without injury to her own health and that of her progeny. That is the opinion of the educated women and they have in no uncertain voice declared and passed resolutions in their meetings throughout the length and breadth of the land to that effect. It was only on the 27th instant that the Tamil Nadu at their conference held at Tinnevely, carried the resolution fixing the Age of Consent at 16 by a huge majority and I was gratified to find that public opinion especially among women, was so strong on the point.

Crimes of seduction or rape are not frequent in this part of the country. The amendment of 1925 does not appear to have had much use in Southern India, where consummation is done mostly after 13. In any case, I do not think it has helped to put off marriage beyond 13 as in the Brahman community girls are generally married before that age.

Girls usually attain puberty in South India between the ages of 13 to 15. Consummation is not common in the country before puberty. I know of one or two instances, however, where a woman finding that her daughter-in-law did not attain puberty till 14 years had the nuptials celebrated with some injury to the girl. There may be similar cases in marital state, but they do not seem to come to Court. Consummation within a year after puberty is very general. If girls attain age at 11 or 12, consummation takes place at times even before they complete 13 years, but these instances are rare.

I do not ascribe early consummation of marriage to religious injunction. Taking into consideration the fact that girls attain puberty between the ages of 13 to 15, I do not think that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. In my opinion between 2 to 3 years must elapse after puberty when alone girls will be really fit for motherhood. I cannot fix the age at anything below 18 when a girl can be supposed to be competent to give an intelligent consent to cohabitation with a due realisation of consequences.

There are a number of cases, to my knowledge, where early consummations have caused injuries both to mothers and babies and in most of these cases the girls were under 16 years. Cases of abortion, still-born children and the death of the girl-mother while in confinement are numerous.

I do not think any law allowing marriage at any age but fixing the Age of Consent would do any good, for it would be really difficult to detect offences under marital law. So I would fix the age at 16 for marriage, in which case there would be no need for an age for consummation, especially for marital cases. The Age of Consent outside marriage may be fixed at 18.

While one would wish that progress in such matters is made possible by means of social propaganda and education, India is so orthodox and the mass of people so ignorant, that we have for the good and welfare of the people force by legislation the abolition of evil custom in the same way as the abolition of sati.

# **Oral Evidence of Mrs. HAMSAMMAL DORAİKANNU MUDALIAR, Madura.**

(Madura, 30th November 1928.) •

(Rai Bahadur Pandit Kanhaiya Lal presiding.) •

*Mr. Kanhaiya Lal:* Are you a member of the Municipal Council in Madura?

A. Yes.

Q. How long have you been a municipal councillor?

A. For the last one year.

Q. Are you connected with national work or any other social reform work?

A. I am not connected with any religious work but I am connected with social work in Madura. I was Secretary of the Indian Women's Association. I am a member of the Red Cross Society, I am a member of the Seva Sangham and also I am a member of the Ladies' Club.

Q. What is the usual age of marriage of girls in your community?

A. Between 13 and 16.

Q. Are there any marriages before puberty?

A. There are in some cases but they are not many.

Q. What is the usual age when puberty is attained?

A. Between 12 and 15.

Q. Could you tell us when consummation of marriage takes place generally?

A. A year after the attainment of puberty.

Q. Have you noticed any evils resulting from early consummation and early maternity?

A. Yes. If the girls are married very soon they become mothers soon when they are not quite fit physically and mentally. When they have to undergo labour, it is a great trouble for them. Sometimes they lose their lives and at times children are left orphans. At times both of them die.

Q. Is their health shattered?

A. Certainly.

Q. Are the children of normal size or are they undersized?

A. They are below average, they are puny and undersized.

Q. Can you give us a few such instances?

A. In my experience in one case a girl became a mother at the age of 15, she was married at 14. It was a forceps case and the baby died. This case happened in the Mudaliar community. I know a lot of cases of my school-mates. One girl was married at 13, she was 14 when consummation took place and maternity took place in the same year resulting in her death. The child survived.

Q. Is that child of normal size?

A. I cannot say. This was a Brahman girl.

Q. How long ago it happened?

A. Some four years ago.

Q. Can you give any other instances?

A. There was another case in which the girl was 15 years old at maternity. She was taken to the hospital but both the mother and child died. This was 3 years back. I know of several other cases like that among the Brahman community.

Q. May I know what remedy do you propose for this state of things.

A. I have said that the age of marriage be raised to 16.

Q. Do you think the age of 16 for marriage will be acceptable generally to the people in this part of the country?

A. Some people will accept it and some would not; but we will have to force the law on them.

Q. Would the majority accept it?

A. Yes.

Q. Would the rural classes accept 16 as the minimum age for marriage?

A. I think if we tell them the evils of early marriage they would accept because rural classes are ignorant about the evil effects of early marriage.

Q. We went to a certain village and we enquired from both men and women. They said we cannot look after our girls after puberty and should be allowed to marry our girls before puberty. Do you think in that state of affairs social propaganda can be organised and can be fruitful?

A. Social reformers have been working but people will not accept any reform unless there is legislation.

Q. But their objection is that we are always working in our fields and we shall not be able to look after the girls after puberty?

A. The traditions and surroundings of Indian girls are such that they are quite efficient to look after themselves.

Q. But it has been stated that unless the girls are being educated or occupied with something to keep them busy and to keep them away from sexual ideas, there would be some difficulty and the parents would be unable to take care of them?

A. It is the duty of the parents to take care of their girls.

Q. But in view of the difficulty that the parents suggest, would you consider the desirability of having a lower age for marriage?

A. If we have a lower age for marriage and a higher age for Age of Consent it would be quite impossible.

Q. As a first step would you accept 14 as a minimum age for marriage?

A. I think 16 is the best.

Q. But if legislature is unable to pass 16 as age for marriage, do you think 14 would serve the purpose?

A. I do not think so.

Q. Do you think the Brahman community will accept your recommendation?

A. Some of the intellectual Brahmans are for this, because in the women's conference at Tinnevely recently Brahmans also were of the same opinion.

Q. In this Women's Conference at Tinnevely how many ladies attended?

A. About 150.

Q. Who presided?

A. Mrs. Shankaran Iyer. She is a Brahman lady and was against a higher age herself but other Brahman ladies supported what I have said.

Q. How many Brahman ladies attended that conference?

A. About 50 or 60. A resolution was passed about 16.

Q. Was there any amendment moved by any lady suggesting a lower age?

A. No. One or two ladies who objected wanted the Age of Consent at 14 and the marriage age at 12 or 13.

Q. If the legislature decides to fix the age of marriage at 14, would you have the Age of Consent at 14 or 16?

A. 16.

Q. Supposing a man breaks the law of marriage. Would you have a law fixing the age of consummation?

A. I will object to the legislation fixing the age of consummation.

Q. Don't you think the law of consummation is also necessary to support the other law?

A. If we raise the age of marriage to 16 I do not think there is any necessity for the other law.

**Q.** If a man breaks the law and celebrates a marriage at 12 risking the payment of a fine or penalty, the State cannot interfere and the consummation can proceed unless there is a law of Age of Consent?

**A.** Yes, we should have an Age of Consent law at 16.

**Q.** There is a difficulty about bringing cases of infringement of the law to light. Would Women's Association help us in the matter and watch and look after such cases and report them to the proper authorities?

**A.** Certainly.

**Q.** Do you think that these marital cases should be made cognisable or non-cognisable?

**A.** I think the law should remain as it is.

**Mr. Kadri:** You say that you are connected with four institutions—the Women's Indian Association, etc. May I know whether Brahman ladies are members of the Women's ladies association?

**A.** Yes.

**Q.** Is this a Branch of the Women's Association?

**A.** Yes, here we have got 16 members and half the members are Brahmins.

**Q.** Are there any Brahman ladies in the Red Cross Society?

**A.** Yes, there is one Brahman lady member.

**Q.** From your association with these Brahman ladies your opinion is that generally they favour raising the Age of Consent?

**A.** The majority of the ladies are for it.

**Q.** In the case of marital cases you would have 16 as the minimum age for consummation and marriage?

**A.** Yes.

**Q.** What should be the age for extra-marital cases?

**A.** 18.

**Q.** Can you send us a copy of the resolutions passed at the Nellore conference?

**A.** Yes.

**Q.** You refer to a case where a women had consummation although she had not attained her puberty. What caste was it?

**A.** Brahman. In Tinnevely there were some cases among Brahmins. They think there is some religious injunction that there should be marriage before puberty.

**Q.** Do you know of any religious injunction on which they relied?

**A.** I have not studied the question but among the Hindus there are 12 kinds of marriages.

**Q.** Do those laws say that marriage must be a pre-puberty marriage?

**A.** There are many laws by which they can marry when they are old enough.

**Q.** From your study of Hindu law what is your opinion whether girls can have a choice in the selection of their husbands?

**A.** I cannot suggest anything. I have not studied the question.

**Mr. Shah Nawaz:** Do you represent fairly the views of the majority of the members of the institution to which you belong?

**A.** Yes.

**Q.** Are you an elected member of the Municipality?

**A.** No; I am a nominated member.

**Q.** Have you come across with the women in the countryside?

**A.** No.

**Q.** Can you tell us whether the richer members of the Mudaliar class likely to imitate the Brahmins in regard to pre-puberty marriages?

A. I do not think so.

Mr. Mitra: Do you find that amongst the Brahmins and the Vaisyas who practise early marriages the girls attain puberty earlier?

A. I do not know.

Q. Would you like to have a marriage law?

A. Yes.

Q. Do you not think that there are orthodox people who object to fixing an age for marriage on religious ground?

A. That may be very few. But the majority of them will be for it.

Q. Do you think that there are a good number of marriages after puberty amongst Brahmins also?

A. I think they are very few.

Q. In these exceptional cases do the other members of the community visit them with *ex-communication* or other punishment?

A. I do not think so, because I know instances where grown-up girls have been unmarried and their parents are not *ex-communicated*.

Q. Are not Brahmins intolerant of late marriages?

A. No.

Q. Do you think that if the age of marriage is raised, the dowry system which at present prevails amongst Brahmins will go?

A. I do not know.

Q. Do you think that those Brahmins who are for late marriages would be pleased because they can marry their girls late under the pretext that the law has fixed the age?

A. I do not know.

Mr. Mudaliyar: Do you know that amongst the Mudaliars there is a class called Kondakatti Vellalars?

A. I do not know.

Q. Is it a fact that amongst non-Brahmins marriages take place some little time after puberty and that consummation is nearer 16 than 13?

A. I cannot say it is nearer 16, because I know of marriages at 14.

Q. Are you talking of Madura or Madras?

A. I am talking of Madras.

Q. Is it not a fact that marriages are generally after puberty and pre-puberty marriages are exceptional?

A. I have not heard of pre-puberty marriages.

Q. About the dowry system, we have heard of demands from the parents of the boy and the boy himself, and in some cases the boys refuse to take their wives unless they are paid a certain amount. Do you think that that evil will be mitigated if the age of marriage is raised, or do you think it will be worse?

A. I think it will not have any effect either way.

Mr. Nehru: Did you go to the Delhi session of the Educational Conference?

A. No.

Q. What is this Tinnevely conference of ladies?

A. It is a constituent conference.

Q. What was the resolution that was passed?

A. The resolution was that the Age of Consent should be raised to 16. They did not say anything about marriage. It was also resolved that the resolution be put forward before this Committee.

Q. How many women were there in the Conference?

A. There were 150 ladies.

**Written Statement, dated the 17th August 1928, of M. R. Ry. Rao Bahadur, M. R. RAMASWAMI SIYAN AYL., B.A., Retired Principal, Agricultural College, Colmbatore.**

1. There is some dissatisfaction with the state of the Law as regards the Age of Consent, outwardly expressed by advanced social reformers and educated Indian ladies, especially members of Women's Associations. I know that there is a general clamour among both educated and uneducated public against any introduction of changes in the social life of the people, in particular against, what is called, Legislative interference in social matters. So far as Madras is concerned, there has been a fairly well organised campaign against such legislation, and the help of orthodox pundits has been invoked for the purpose. At the same time, it is my opinion that, once the Bill is passed, it will be as cheerfully accepted as the former amendments have now been accepted without a demur. The heavens have not fallen, since the Age of Consent Act was first passed and then the age was raised, although there were objections to legislative interference in those days.

2. The circumstances which, in my opinion, justify making an advance on the present Law are:—

- (i) an increased amount of, what may be called, social consciousness, amongst the people, especially among the educated classes,
- (ii) a real feeling in the country that early consummation, resulting as it does, in early maternity, entails feeble health and stunted growth in mothers, produces weak and puny children and causes high infantile mortality,
- (iii) a growing feeling in the country that, for the attainment of Swaraj on one side and for the prevention of probable total extinction on the other, India should produce a strong and sturdy race, able to compete with other nations in the world where late marriages and late maternity are the rule,
- (iv) the necessity for the removal of reproaches from people of other countries that, knowing that there are social evils which hinder the march of progress, the people of India are not courageous enough to set right those evils.

3. I have no personal knowledge.

4. I cannot say that the Amendment of 1925 has done much, but the people's sense of consciousness has largely been responsible for the fact that girls are married a little later than some years ago and that the consummation of marriage is also put off, after puberty, as much as possible. Really speaking, no parent thinks of the Act when he settles about the marriage or consummation of marriage of his girl, but economic causes have largely helped to bring about late marriages and late consummation as well.

5. Rarely do girls attain puberty before 13. The usual age of puberty is between 14 and 15. Brahmin girls and high caste non-brahmin girls attain puberty at least one year earlier than non-brahmin girls of similar constitution belonging to the same caste.

6. (1) Cohabitation is unknown, as far as I know, before puberty.

(2) Rarely does cohabitation take place immediately after puberty. At least there is an interval of 6 months. The general rule, however, is to postpone consummation from 1 to 2 years after puberty.

(3) Cohabitation before the girl completes 13 years is very rare.

As far as I know, no case has come to Court. Even if such a case occurs, the aggrieved party will not care to take it to Court.

7. As far as I know, there is no religious injunction that consummation should take place within a particular period after puberty, but the parents of a married girl will be unhappy if the consummation is delayed beyond three years utmost.

8. Garbadhanam ceremony is performed amongst Brahmins on the day of consummation. It is never done before puberty. There is an interval, as

mentioned above, usually of 1 to 2 years, between puberty and consummation.

9. The attainment of puberty is, in my opinion, certainly not a sufficient indication of physical maturity for consummation of marriage, much less for maternity. A girl does not get, what may be termed, a woman's charms, until some years after puberty, probably not before her 18th year. In view, however, of the precocious nature of Indian girls, it is quite possible that a girl would have attained sufficient physical development to justify the consummation of marriage, by the time she has completed her 16th year.

10. Accustomed as Indian girls are to talks of marriages and husbands in their homes from their childhood, these girls realise, in my opinion, the consequences of cohabitation at whatever age the consummation may take place; and trained to respect a husband, whoever or whatever he may be, with great veneration, and with this spirit of reverence for the husband engrained them, no Indian girl would refuse to give her consent and an intelligent consent to her husband, when he seeks cohabitation with her. In a way, she has no thought for her own health and she is happy if she has pleased the husband.

The question, however, is to what extent the Legislature should come to the help of the girl before she gives a consent to her husband—in the interests of the physical welfare of the girl—for the ostensible reason that at a very tender age she could not have developed her mind to such an extent as to know exactly what is good for her and to oppose the overtures of an amorous husband. The proposed 14 is a better age than the existing 13 as the Age of Consent.

11. I have no knowledge of cases in which cohabitation took place before puberty, but I have seen a number of cases in which puny and sickly children were born to girls who had not attained good physical development, and the girls themselves never grew, after early maternity, to healthy womanhood later on. I am unable to furnish details.

12. It is my considered opinion that early consummation and early maternity have been, greatly and almost solely responsible for high maternal and infantile mortality, for the poor health of boys and girls of school-going age and for the comparatively shorter life of Indian people.

13. There has been very little further development of public opinion in favour of an extension of the Age of Consent, either in marital or extra-marital cases, after the Amendment of the Law in 1925. For one thing, the interval is too short. It must be said, however, that women's organisations and Baby welfare centres have helped to advance public opinion to some extent. Mahatma Gandhi's articles in *Young India* and his public utterances, the speeches and writings of India's great leaders, like Lala Lajpatrai, and the greater interest which political leaders of all shades of opinion now evince in social questions—while formerly they kept themselves safely aloof—these have also contributed to advance public opinion. Miss Katherine Mayo's book "*Mother India*," containing, as it does, exaggerated, wrong and vilifying statements of the lives of the Indian people, opened at the same time the eyes of responsible leaders to the immediate necessity for rectifying the social evils in the country by their own exertions.

14. Educated or uneducated, women do not favour early consummation, and, realising consequences better, would generally prefer that the consummation is postponed to at least one year after puberty. Brahmin women would like, however, to hurry up marriages before puberty for fear of remarks from Mrs. Grundy. Rather than treat the attainment of puberty as a festive occasion which, they always do if the girl is already married, mothers will hide the fact of puberty and become sad and miserable if the girl attains puberty before she is married. Inability to find suitable bridegrooms, want of sufficient funds for celebrating the marriage and other economic causes have largely helped to keep girls unmarried until after puberty, but no sensible Brahmin mother will grant that her unmarried daughter has attained puberty.

It may be even said that a Brahmin girl officially attains puberty, only some time after she is married.

\* 15 and 16: I do not know if there are difficulties in determining the age of girls for purposes of sections 375 and 376 of the Penal Code. I would point out, however, that the ascertaining of the age of a girl by a medical examination should be resorted to as a last resource. A horoscope or an extract from a Birth Register, school admission or any other official record should be accepted in a Court of Law as evidence of age, as far as possible. No girl likes to be examined for this purpose and she will rather put up with cruelty from a husband than a well-intentioned medical examination even by a women doctor. Examination of a girl by a male doctor for the purposes of marital offences, should not be permitted.

17. Extra-marital and marital offences have to be treated differently, the former with severity and the latter with leniency. I say leniency, not in the interest of the husband who is the culprit, but in the future interests of the girl. It is the girl who will suffer in the end. When she grows up, she will most likely lament for the part she took in her early life in sending her husband to jail. In most cases, the girl wishes to cherish her husband later on. A premature overture by a husband to his wife should not result in bringing about a complete bitterness between the husband and wife for all time. It has to be remembered that, as the Law stands at present, there is no relief for a girl whose husband has been convicted for a marital offence, in the form of divorce or remarriage, and it is highly controversial whether such relief would conduce to the well-being of Indian girls. The maximum of two years' rigorous imprisonment is, in my opinion, too severe a punishment for a husband who cohabits with a lawfully wedded wife, a few days or few months before, what is legally called, the Age of Consent. A severe warning, imprisonment till the rising of the Court, should often be sufficient to give a corrective lesson to an impetuous husband. The punishment should not have the appearance of being vindictive, but should be meted out with mercy and consideration for the girl. At any rate, I would not advocate a more severe punishment than simple imprisonment which may extend to 6 months.

18. Trials of marital offences should be held *in camera* and all records connected therewith should be treated *confidential*. It is worthwhile considering whether such trials may not be conducted by officers with a judicial frame of mind, like District and Sessions Judges and Sub-Judges who are empowered to act as Assistant Sessions Judges, rather than by Magistrates who are essentially executive officers. While marital offences were hitherto triable by a Court of Session, a Chief Presidency Magistrate or a District Magistrate, the present bill proposes that these offences will be tried by any Presidency Magistrate or any Magistrate of the First class. It looks to me that this is a retrograde step.

19. I do not know what are the safeguards existing at present against collusion on one side and improper prosecution and extortion on the other. Whatever safeguards may ultimately be provided, it is, in my opinion, essential that collusion should be dealt with leniently and improper prosecution and extortion severely against vexatious interference with the social lives of, otherwise, happy families. While the number of marital offences has been little or nothing as long as the Age of Consent was 13, there is every likelihood of the number of such offences increasing, when the Age of Consent is raised to 14.

20. Raising the minimum age of marriage, however, desirable it may be, would be opposed by the public more violently than fixing a higher Age of Consent, as long as there is a belief that religious texts demand the giving away of a girl in marriage before puberty. Fixing of a higher Age of Consent is done by the Legislature in the interests of the physical health of the girl-wife; and the Legislature has passed similar Acts in the past to safeguard such physical health.



21. While I would rely more on the progress of social reform by education and propaganda than on the strengthening of the penal law, I wish to make it clear that, in my opinion, it is the duty of the legislature to enact such Laws, from time to time, to safeguard the lives of the community and their physical helath in accordance with the progressive ideas of a social hygiene, and that I would not consider it as Legislative interference in social matters, as is contended by some. A change seems to be needed in our social life and Legislative enactments have been passed in olden days when there were no Indians, so to speak, in such legislative bodies. Now that there are people's representatives in majorities in the Indian Legislative Assembly and in the Provincial Legislative Councils, there is less reason now to oppose legislation in social matters.

*General.*—Although not a direct answer to any of the questions of the Questionnaire, I would like to take this opportunity to suggest to the Committee the desirability,—I would say, the necessity—of removing all marital offences from section 375 of the Penal Code and codifying the same into a separate section, and dealing with them, for purposes of procedure, under a separate section of the Criminal Procedure Code. The word "Rape" signifies offences enunciated under the five headings in section 375, offences committed by an *unauthorised person* against an unwilling mature woman or against a willing or unwilling immature girl. The marital offences contemplated in the exception to section 375 are committed by a *lawfully wedded husband* who has a perfect right to cohabit with his wife, against such cohabitation when she is immature in the eye of the Law. It will ease the way of legislation and respect the sentiments of most people, if the marital offences are called by some other name than Rape.

*P. S.*—I agree to the raising the Age of Consent to 16 in extra-marital offences.

**Oral Evidence of Rao Bahadur RAMASWAMI SIYAN, B.A., Retired,  
Principal, Agricultural College, Coimbatore.**

(Madura, 30th November 1928.)

*Mr. Kanhaiya Lal:* Were you the Principal of the Agricultural College at Coimbatore?

*A.* Yes.

*Q.* When did you retire?

*A.* Last year.

*Q.* How many years were you in the Agricultural Service?

*A.* 35 years.

*Q.* To what community do you belong?

*A.* Tamil Brahmin community.

*Q.* Have you been connected with any social or religious movements?

*A.* For the last 35 years I have been connected with social reform. I was one of the original members of the Madras Social Reform Association along with Mr. K. Natarajan. I was Secretary of the Association for some time after the late Mr. G. Subramania Iyer. I am also helping the cause of women education. In these things I get a lot of assistance from my wife.

*Q.* Are there any communities in your part of the country amongst whom early marriages are practised?

*A.* Early marriage is practised amongst the Brahmin community.

*Q.* And amongst the non-Brahmins?

*A.* It is practised by those non-Brahmins who think it respectable to imitate the Brahmins.

*Q.* What is the usual age of marriage amongst the Brahmins?

*A.* It is now 18 to 14. Formerly it was much lower.

Q. What is the usual age of puberty?

A. Between 14 and 15.

Q. Do marriages always take place before puberty amongst Brahmins?

A. Yes; except in the case of a few educated girls.

Q. Is puberty at times concealed amongst Brahmins?

A. I should think so.

Q. Is it also true that marriages are at times delayed even after puberty when suitable husbands are not available?

A. That is the principal reason why it is delayed. The rich man has to pay plenty of dowry to get a husband for his girl. The poor man is unable to pay the dowry and that is the reason why the marriage is delayed. But no sensible man will say that the girl has attained puberty before marriage.

Q. Are marriages after puberty considered reprehensible amongst Brahmins?

A. Yes.

Q. What is the usual age of marriage amongst non-Brahmins?

A. Non-Brahmins as a rule marry their girls after puberty except some who want to imitate the Brahmins. About 15 years ago Mr. (now the Rt Hon'ble) Srinivasa Sastri brought forward a Bill in the Madras Legislative Council to remove the doubt whether post-puberty marriages were valid or not. But practically it was dropped as unnecessary.

Q. As regards consummation, what is the usual age amongst Brahmins?

A. Usually a year at least elapses after puberty.

Q. Is there any public ceremony in that connection?

A. Yes. It is called the Garbhadan ceremony. There is one little point about it. According to the original ideas this Garbhadan ceremony was performed on the 4th day of the regular marriage, showing that in those days girls were old enough to undergo the Garbhadan ceremony. As a matter of fact in one of the texts it is said that the husband and wife shall lie on the same bed for four days and on the fourth day there shall be consummation. The husband and wife are supposed to watch the sacrificial fire. I remember in my days when I was 17 and my wife 10 we slept on the same bed.

There is also another point. In all our marriage ceremonies all mantras are uttered in Sanskrit, but there is a peculiar ceremony at which vernacular is used. The bridegroom is supposed to be going to Benares for higher studies in Sanskrit. The father of the girl stops him and says "I am quite satisfied with your education. Here I have a girl able to guard your sacrificial fire and able to give birth to children. I will give her to you as *Dāna*. Will you kindly settle down as a Grihastha with her for your wife?" Then two cocoanuts are presented by the father of the girl to the bridegroom in the public street. In Madras, especially amongst the Tamil Brahmins, this ceremony is gone through. The bridegroom is dressed as if for a journey to Kashi, with a bundle of rice in the one hand and an umbrella in the other. Then the father of the girl presents the cocoanuts and says that he need not go to Kashi, but settle down with his girl for his wife. All this is said in the Vernacular. Then the boy says he will accept the girl. Afterwards the real ceremony of Kanya Dana, Tali tying, and Sapta Padi are gone through. All these show that post-puberty marriages were in vogue in those days.

Q. Do these ceremonies exist amongst the non-Brahmins?

A. Some of the high class non-Brahmins perform them.

Q. How long after puberty is this Garbhadan ceremony performed amongst the Brahmins?

A. It is generally one or two years after puberty.

Q. And amongst the non-Brahmins?

A. Amongst non-Brahmins a girl can be married at any time. It is only a few amongst the non-Brahmins who take to pre-puberty marriage.

In the case of those non-Brahmins who have post-puberty marriages consummation does not take place within the first three days of the marriage.

**Q.** Have you come across any cases of evil results following early consummation or early maternity amongst Brahmins?

**A.** I have come across a number of cases.

**Q.** Can you give us some instances without giving names?

**A.** A girl was 14 when she had consummation. Before she was 15 she gave birth to a child. It was a very painful delivery. She had to be taken to the hospital. Ever since that time she is a weakling. This happened 7 or 8 years ago. The girl is a weakling now. But her father and mother are healthy. I put it down to early consummation. If she had gone to her husband after some two years she would have had very healthy children. The child is alive but is very puny. The father of the child is perfectly healthy. Another girl was consummated at 13 or 14. Within 10 months of her first conception she developed tuberculosis. The child is healthy, the husband is healthy, but the girl is weak.

I have seen any number of such girls in the streets. Some of them have two or three children, and most of them are puny. In this respect, the non-Brahmin working class girl is a girl to be admired. I think the higher the social standing of the girls, the less do they get physical exercise, and the more weak they are.

**Q.** Have you observed any difference in the health of the children in the case of Brahmin girls and in the case of non-Brahmin girls, owing to the former being married early and the latter married late?

**A.** I have seen healthy children both amongst Brahmins and the non-Brahmins, but I have not compared the conditions.

**Q.** Can you suggest any remedy to prevent the injury to the girls and their children?

**A.** The only remedy is to postpone consummation as far as you can.

**Q.** Would you like to have a law fixing the age of marriage?

**A.** Personally I would like to have it; but I think it would be objected to by the Brahmin community specially in South India. However it is the Brahmin community that needs the legislation. I am just thinking whether they will not oppose it even if they have complete Swarajya. We, the educated classes, feel that we must have a strong and sturdy race, and medical opinion says that for that purpose we must marry our girls late. In order to do that we must enact laws for the welfare of the whole of the nation even if there are a few people who do not want it. They did not want Sati to be abolished. They did not want widow remarriage, and they did not want the Age of Consent law. I dare say if we fix the age of marriage at 14, nothing serious will happen.

**Q.** What age would you recommend for consummation?

**A.** For legal purposes it should be 14. But personally I think it should be 18. I think that is the age at which a woman develops real charms and keeps proper health only about that age. But for legal purposes I would not have it at more than 14 for the present.

**Q.** Would you put it at 14 in order to minimise opposition to the measure?

**A.** To a certain extent to minimise opposition. But I think it is a safe age also.

**Q.** Do you not think that if it is 14, it would interfere with the education of the girls?

**A.** It is not every girl that goes to school. At Coimbatore there is a high school for girls in the middle of the Brahmin street, but in the higher classes there are only one or two girls studying, though the schools are entirely manned by women teachers. The parents keep away their girls from the schools. These things happen even though you give proper facilities for education.

Q. Considering that there is an increasing tendency among Brahmmins and non-Brahmins to give education to their girls, do you think that 14 would be safe as the minimum age of consummation?

A. I think it will give the girl a larger time to go to school. It will be better.

Q. We have been told that the present law of the Age of Consent is a dead letter. What would you suggest to bring cases of breach to light?

A. It is much better to wink at these cases rather than create bitterness amongst families and between the boy and the girl. I would rather not disturb the harmony of the family life.

Q. What is then the use of having a law at all? Would you prescribe lighter punishment than at present? The present punishment under 12, is transportation for life or 10 years, and above 12, 2 years.

A. Practically I am against any kind of punishment. My idea is that it is the girl who will suffer if the husband is sent to jail.

Q. In practice even below 12 the sentences awarded have not been high. The judges are wise enough and they realise the conditions. Would you therefore keep the punishment under 12 as it is?

A. I think it is too much.

Q. If the punishment is light, how will it deter people from committing such offences?

A. I think that below 12 the punishment should be 6 months and after 12 fine only.

Q. Do you think that if you reduce the punishment a large number of cases would come in?

A. I am not thinking of the number of cases, but of the suffering of the girl.

Q. Would you make a marital offence compoundable in order that good relations might be restored between the boy and the girl?

A. You are now enacting a law on behalf of the girl who is not old enough to develop her mind and give an intelligent consent. Therefore the offence should not be compoundable.

Q. Supposing the boy is 16 and the girl 13, would you not like the case to be compounded?

A. It is an offence against public health, and I think it should be severely dealt with.

Q. Would you like warnings to be given in cases of this character, and allow security bonds to be taken?

A. I think very often the social opprobrium attached to it is sufficient punishment to a sensitive young man. I think sentence till the rising of the Court, and giving a warning and probably a fine would do.

Q. If you have only the law of the Age of Consent, there might be cases in which the offence might go undetected. Would you therefore have also a legislation fixing the minimum age of marriage?

A. My personal opinion is that it is good for the country to have a minimum age fixed for marriage. I think it should be 16, and then we can do away with the Age of Consent. But as things are in South India I think it is absolutely hopeless to think of it because everybody here is of opinion that marriages should be performed before puberty.

Q. What age would you personally recommend as the minimum age of marriage if there is to be a law?

A. I think 12 though it is very low would be something. My personal opinion is that it should be 16, though for purposes of legislation I would recommend only 12.

Q. Supposing there is a breach of the law of consent, would you like that these cases should be enquired into by the police?

A. No

**Q.** At present, under 12 the offence can be investigated by the police, and after 12 the offence is non-cognisable.

**A.** I do not want the police to have anything to do with it. The public opinion is that the police should not be entrusted with these cases unless they are entrusted to the hands of a senior officer, say a Deputy Superintendent of Police. There is also a general feeling in the country that Magistrates should not try these cases, but that they should be tried by men with a judicial frame of mind.

**Q.** Would you be satisfied if in all marital cases a preliminary enquiry is made by the Magistrate before a prosecution is launched so that all vexatious complaints might be eliminated?

**A.** Yes; that might be done.

**Q.** Do you think it would be helpful if instead of having these cases tried by a Magistrate or a Sessions Judge, we have a separate matrimonial Court, consisting of a Magistrate and two non-officials, so that better confidence might be inspired in the minds of the public?

**A.** I think it is worth a trial. I would even suggest that these cases might be tried by the ordinary bench Courts.

**Q.** Would you have these non-officials as assessors or as co-Judges?

**A.** I would have them as co-Judges.

**Q.** Would you recommend a system of registration of marriages, giving the ages of the marrying parties, and other particulars, so that they might help in finding out the breaches of the law?

**A.** I think there is no harm, and it does not involve any religious difficulty.

**Q.** Who should be the authority to maintain these registers?

**A.** The Municipalities in towns, and in the rural areas the respective local board authorities can do it. In villages you can give the power to the village panchayats.

**Q.** Have you got village panchayats in all villages?

**A.** We are now gradually introducing them.

**Q.** Do you think the village panchayats can maintain them?

**A.** Yes; they have usually got a clerk who can maintain them.

**Q.** What is the area covered by a village panchayat?

**A.** There are three or four villages in each panchayat. Villages within a radius of five miles are managed by one panchayat.

**Q.** Are they working satisfactorily?

**A.** They are making great headway. I have said so in my evidence before the Royal Agricultural Commission. There is no question of harassment with them.

**Mrs. Nehru:** Are post-puberty marriages considered invalid in Madras by any section of the community?

**A.** There is a doubt whether it is valid.

**Q.** Has there been any case questioning the validity of the marriage?

**A.** As far as I know no case has been declared invalid.

**Q.** Has anybody disputed the fact?

**A.** I am not quite sure.

**Q.** Do you consider only early maternity injurious or even early consummation?

**A.** In my opinion early consummation is as bad as early maternity. Both affect the health of the girl, but early maternity more. Early consummation brings in enervation. I think it must tell. There is prevention of the growth of the body and it mars development.

**Q.** As regards marital cases, to whom would you give the power of making complaints? Would you like the power to be given to certain recognised organisations?

A. I do not think social reform organisations are reliable. I would give the power to Panchayats or Committees appointed by the Government for the purpose. My idea of a social reform organisation is that it is a nebulous body.

Mr. Mudaliar : What is the usual age of puberty amongst Brahmin girls?

A. Usually 13 to 14.

Q. And consummation usually takes place one year after?

A. Yes.

Q. So that consummation takes place long after 14.

A. Generally speaking 90 per cent. of the Brahmin girls have their consummation after 14 now.

Q. So that if the Age of Consent is fixed at 14, it will not affect more than 10 per cent. of the Brahmins?

A. Yes; and it would be an advance on the present law.

Q. But do you think it is calculated to do any good?

A. I daresay it would. I would personally prefer 16, but I put it at 14 as being on the lines of least resistance. I am also given to understand that you propose to raise it only to 14.

Q. The Bill proposed by Dr. Gour was annexed merely for the purpose of reference, but that does not mean that we propose to raise the age to 14. I am asking you if consummation is done at 14, and only 10 per cent. of the Brahmins have consummation earlier than 14, fixing the Age of Consent at 14 would not be much effective.

A. But I should think that 10 per cent. is a pretty large figure.

Q. But it would be 10 per cent. of a single community.

A. But it is 10 per cent. of a single community which sets the fashion for all the other communities. Only recently my carpenter married his daughter at the age of 12 though he need not have done so.

Q. Do you think it is the result of fashion?

A. I do not think there were any other causes.

Q. Do you think in cases where the girl is married at 12 or 13 the girl is sent to the house of the husband immediately after marriage?

A. No.

Q. Taking these facts into consideration that 90 per cent. of Brahmins consummate after 14, would you have any objection to fixing the age at 15 by law?

A. Personally I have no objection.

Q. Do you think that the objection to 15 would be much greater than to 14?

A. I think so.

A. On what grounds?

A. Because there are grown-up girls who are perfectly healthy at 14, and sometimes for family reasons it may be necessary for the girl to go to her husband's house sooner. I think that now you can take a step forward and fix it at 14, and raise it later.

Q. I put to you an alternative suggestion. Instead of having all these violent discussions and turmoils with the orthodox people from time to time, don't you think that these people will adjust themselves in two or three

A. No. What I say is that if you make it 14, you will have practically the support of 99 per cent. of the population. If you make it 15, I should not be surprised if the number comes to 50 per cent.

Q. I hope so; but the evidence so far given does not justify your first statement. But granting that it does so, when do you expect the things to advance?

A. After 10 years. The country is moving so fast, I believe, that these very same people who object to this now, in ten years they will want it. The very orthodox people who are now against it will, in my opinion, come to ask for more.

Q. Would you have 14 for marriage by legislation?

A. It is my personal opinion that 16 is the proper age for marriage and consummation but for practical purposes if you have 12 and 14, you will go very fast.

Q. That is to say that if by legislation we want to approach this question, you would suggest 12 as the marriageable age and 14 as the consummation age. Therefore would you not support Mr. Sardar's Bill?

A. My own opinion I have told you.

Q. What I ask you is this. If you were a member of the Legislative Assembly, would you support that Bill?

A. I will support it up to 16.

Q. Then why do you think that 12 should be the age for marriage? Is it your idea that pre-puberty marriages are considered so essential?

A. Yes, it is considered essential. There will be a violent opposition also, if you fix a higher age for marriage.

Q. What is the percentage of the Brahmin population you think will object to the legislation fixing 14 as the age of marriage?

A. 90 per cent. of the Tamil Brahmins will be against it. But my personal view is different. But at least with 12 you can come to a compromise and I am against exempting the Brahmins from this who want the legislation more than anybody else.

Q. Do you know that in Baroda recently a legislation has been passed fixing 14 as the age of marriage?

A. Yes.

Q. So what do you think the consequences here will be if we pass such a legislation? May I take it that there will be a great resentment and opposition?

A. Absolutely no effect will be seen. They will demur but afterwards it will be acceptable. There will be people who would like to postpone the marriage which they are now unable to do on account of the fear of public opinion; and if such a law is passed, they can get behind this law and this law will be a great help for those who want to advance. I believe to a certain extent the dowry will go down also.

Q. Therefore may I take it that you don't expect any serious political consequences?

A. No! No! I don't expect any political consequences to result out of it.

Mr. Shah Nawaz: Will you kindly tell us the opinions of the women with regard to this question of early marriage and early consummation?

A. There are two sections. One is the more advanced opinion and the other is the general orthodox opinion. The more advanced opinion is the same as what the previous lady witness said and the general orthodox opinion is that any interference with the age of marriage of girls is bad. But there is a tendency now to keep the girls unmarried as long as possible.

Q. What is the feeling in the country side?

A. The feeling is same there.

Q. Do they want to marry their girls early or do they want to postpone the marriages?

A. They don't think of postponing or getting it done quickly. It all depends upon their getting a suitable husband for the girl. If they cannot get a suitable husband and no enough money could be found to pay to the bridegroom, they go on postponing the marriages.

Q. Is there a considerable number of persons belonging to other castes than the Brahmins who would have celebrated marriages of their girls in the usual course after puberty but who wanted to imitate the Brahmins and had actually married their girls before puberty?

A. At present it is not a question of mere imitating the Brahmins. That imitation took place some years ago, so much so, it has become a custom at present for them to marry their girls before or after puberty.

Q. Are there persons now who would have married their girls after puberty but have married their girls before puberty seeing that the high caste people marry their girls before puberty?

A. At present there is no regard at all for the Brahmin ways of doing that. But now-a-days, excepting the Brahmins, all other castes marry their girls generally after puberty. There is also no objection if they keep their girls unmarried after puberty.

Q. Are you of opinion that the Brahmins should not at all be exempted from the contemplated legislation regarding law of marriage and consummation?

A. I think so. It is amongst the Brahmins that the age of marriage is low, and they would welcome a marriage legislation all the more at heart.

Mr. Kadri: May I know what is the percentage of Tamil Brahmins in the entire portions of this Presidency?

A. The total population of Brahmins in this Presidency is 3 per cent. of the entire population and the population of Tamil Brahmins is  $1\frac{1}{4}$  per cent.

Q. What are the shastric injunctions about the education of the girls?

A. There is no injunction at all for a girl to be educated.

Q. You see the idea is this. If a girl is married early she is prevented from further education and therefore in order to enable the girl to complete her education it is necessary that the marriage should be postponed. Again the conservatives say that the Shastras do not prescribe any education for the girl and that she has to learn from her father or brother or her husband. So may I know what is your idea about this?

A. Whatever the Shastras may say, the most orthodox Brahmins give some kind of education to their girls upto 12 and they are withdrawn from the schools when they attain their age, and are kept at home.

Q. According to the Shastras, should the girl have a voice in the selection of her husband?

A. I don't know that aspect. But I suppose that even from the olden days the girl had had always a voice.

Mr. Shah Nawaz: What age would you have for the Age of Consent in extra-marital relations?

A. I said that I have no objection to raise it to 16, but I would like to amend it by saying that it should be 18 for this reason. It is an offence committed by a stranger on an unprotected girl and I think no girl who has not attained maturity of understanding can give any consent. Therefore the age what may be called "the legal age" should be the Age of Consent for this purpose also.

**Written Statement, dated the 15th August 1928, of Dr. (Miss) I. M. ROBERTS, in charge of Women's Hospital, American Mission, Madura.**

1. Yes.

2. (a) The effect upon the health of the mother and child in the case of early delivery among educated classes, the cutting short of the girls' education.

3. We are not in a position to give an accurate opinion as to their frequency as such cases are, as a rule, not brought to a hospital.



5. About 18 is the average.

6. (1) It is fairly common, though not the rule.

(2) Yes.

(3) Occasionally.

7. No.

9. No, about 6 years after puberty.

11. 1 case of rupture of the pesineum-child of about 8.

1 case laceratia of vaginal vault-age about 16.

Such cases are not, as a rule, brought to hospitals.

12. Yes.

14. Yes. In cases where puberty is later than normal they sometimes ask for medical certificates that the girl has attained puberty so as to send her to the husband's house.

17 and 18. No.

20. Raising of the Age of Consent for marital cases would be easier to enforce and more effective.

21. Education is the more important but legislation is also needed.

**Oral Evidence of Dr. (Miss) I. M. ROBERTS, in charge of the Women's Hospital, American Mission, Madura, and of Dr. (Miss) HARRIET PARKER VAUGHAN.**

*(Madura, 30th November 1928.)*

*(Rai Bahadur Pandit Kanhaiya Lal presided.)*

*Mr. Kanhaiya Lal:* Had you been in charge of the American Mission Hospital, Madura?

A. (Dr. Vaughan) Yes.

Q. How long had you been in charge of this Hospital?

A. Since 1896 to 1926.

Q. When did you succeed Dr. Vaughan?

A. (Dr. Roberts.) I succeeded Dr. Vaughan three years ago.

Q. How long have you been practising?

A. (Dr. Vaughan.) Since 1890 I have been practising.

Q. Since when are you practising in India?

A. Since 1895, I have been practising in India.

Q. Since when are you practising?

A. (Dr. Roberts.) I graduated in 1911 and have been practising since 1918.

Q. Is all your practice confined to Madras Presidency?

A. I practised for 12 years in the Punjab before I came to Madura. Before I came to Madura, I was in Boston for a year and also I was in Paris. Then I came to India.

Q. Both of you I think have considerable medical practice. May I know whether you have come across any cases of serious injuries to girl mothers or to the children by reason of early maternity?

A. (Dr. Roberts.) I know of one case where the girl was 11. She was pregnant for 7 months when she was brought to the hospital. But after sometime she went away. I know nothing of her confinement. I approached her people and they said that her condition was very serious.

A. (Dr. Vaughan.) I have seen a good many cases where the girls suffered much. In one case the baby had persistent convulsions but not on account of any difficulty at the time of birth.

Q. Can you say what happened to that baby?

A. It suffered indefinitely.

Q. What about the mother in that case?

A. The mother got on very well.

Q. How long ago did this case happen?

A. I cannot give you the date. It happened several years ago.

Q. When did the case you mentioned happen?

A. (Dr. Roberts.) This case happened before 1923.

Q. Can you tell us to what caste this girl belonged?

A. She belonged to the Sourashtra caste.

Q. To what caste did the other girl belong?

A. I don't know to what caste she belonged. She must be a dancing girl. Perhaps this must be a case of early connection.

Q. Do you remember any other case?

A. No.

Mrs. Nehru: Can you tell me the ages of these mothers who had come to the hospital there?

A. (Dr. Roberts.) As a matter of fact we have records. We have kept special books for this. But I have't brought them here and so I cannot give you those figures. I have brought the figures for the following: This is for six months from last June to last November 1928.

We have 51 first born babies.

3 under 14,

5 „ 15,

5 „ 16,

6 „ 17,

11 „ 18,

and so on.

Q. Can you tell us what was the condition of the babies and the mothers who were under 14?

A. There was not any difficulty and the deliveries were normal.

Q. Which class generally comes to the hospitals?

A. We get all classes, Sourashtras, Hindus and a few Mahommadans.

Q. Do rich people also come to the hospitals?

A. Both rich and poor come to our hospitals.

Q. Do Brahmin girls also come to your hospitals?

A. Yes.

Q. Can you tell me to what caste these 3 girls under 14 belonged?

A. I am sorry I have't recorded that.

Q. You have said that there were no greater difficulties amongst the girls of 14 and 15 during delivery. Is it so?

A. One of them was a convulsion case aged 14. I mean the mother herself had a convulsion during delivery but there was no special difficulty.

Q. Would you say whether this was due to early consummation?

A. I cannot say that.

Q. What about the weights of these babies of mothers of 14?

A. I am sorry I have't brought the book. I have a record of these and I shall send you the same.

(Witness has promised to send a record of the weights of the babies.)

Q. (To Dr. Vaughan.) What was the general condition of babies whom you have seen during your long experience in connection with these hospitals?

A. (Dr. Vaughan.) Of course they are usually rather small in proportion to the development of the mother.

Q. What is the condition of the health of these mothers?

A. Generally they are seen for a week and afterwards nothing is known about them.

Q. What is the fit age in your opinion for consummation of marriage for Indians?

A. I should be in favour of 16 at present and gradually it can be raised rather than by immediate legislation to that effect.

Q. What age would you recommend for marriage?

A. Minimum 12.

Q. What is the safe age for maternity?

A. I think many girls are quite able to deliver at 16.

Chairman: Is the ossification sufficiently developed at 16 to admit of safe maternity?

A. Some are not attaining their growth at 16 but 16 is a fairly safe age for maternity.

Q. (To Dr. Roberts.) May I know if your opinion is the same in these matters?

A. (Dr. Roberts.) I really do not know the Hindu customs and I do not know what the feelings are in India. Apart from the question of religion, etc., I would put 18 as the safe age for maternity.

Q. Do you base this opinion on the physical growth of the girls?

A. Yes.

Q. You said you were in Punjab. Did you find the girls in Punjab stronger and healthier than the girls here?

A. Yes.

Q. Did the girls of Punjab attain their age earlier than here?

A. I did not find much difference.

Q. Do you not think that 16 will be a sufficiently fair advance under the present circumstances for consummation and maternity?

A. I say you are getting back to the question of public opinion. From the medical point of view I still stick to my 18. Dr. Vaughan is considering the customs but I am not, Mrs. Nehru.

Q. Have you found out any cases in the course of your work here where consummation has taken place before puberty?

A. (Dr. Roberts.) I have had a number of patients in the hospitals in which there has been consummation before puberty.

Q. Were they suffering from any disease?

A. Not necessarily. I know of one case where the girl was aged 11 and consummation had taken place before puberty. She disliked being at home and came to the hospital.

Q. To what caste did that girl belong?

A. She was a non-Brahmin.

Q. This might be an exception. Can you think of many cases like this?

A. I have consulted our Indian Assistants. They believe it to be fairly common. I have not had many cases actually in hospital because there was no occasion.

Mr. Kanhaiya Lal: Are cases of injury entered in the Register?

A. I suppose they would be, but they are concealed as much as possible. We even give medical certificates to mothers who come and ask for them, saying that their girls had attained puberty, even though they haven't menstruated.

Q. Why do they require these certificates?

A. They require these certificates in order that the girls may be sent to their husbands' houses.

Q. Do you think that because the mothers want to send away their girls to their husbands, they ask for certificates?

A. Apparently it is so and it might be due to economic conditions.

Q. Do many mothers come to you for such certificates?

A. Quite a number. It is not uncommon. They have frequently come to me for consultation under those conditions.

Mrs. Nehru: Were such certificates asked for more here than in the Punjab?

A. I have never had such occasion in the Punjab. Only here the women do come and ask for certificates saying that puberty has taken place though it has actually not.

Mr. Kanhaiya Lal: Have you found cases of sterility among young girls in your long experience?

1. (Dr. Vaughan.) I have seen sterility in a large number of cases.

Q. Do you think that the sterility is due to early consummation in such cases?

A. It is due to lack of maturity and development.

Q. Is that development retarded by early consummation?

A. I don't know about that. It depends upon the age.

Q. Supposing consummation is started at 12, do you think under any circumstance it might result in sterility to the wife and retard the development and growth of the parts?

A. I wouldn't be able to say that

Q. Have you come across cases in which early consummation has resulted in either tuberculosis or in osteomalacia or disorders of that kind?

A. Not in this place.

Q. Did you find displacements or things of that kind causing sterility?

A. It is very difficult to say about past things of what they are due to

Q. Have you seen girls in whom there have been displacements?

A. I have seen many girls.

Q. Can you not say whether they were due to early consummation?

1. I think in most of the cases they are due to lack of proper care and confinement.

Q. Have you had here cases of tuberculosis?

A. I won't say that.

Mr. Mudhrai: Have you come across cases where the first onset of puberty appears and then for six months or eight months there is no sign of menses at all?

A. (Dr. Roberts.) It is some times irregular but I don't think there will be no sign of menses at all for as long a period as six months, but certainly not for a year.

Q. Have you come across cases where after the first onset of puberty, the second comes after six months?

A. I have never known intervals as long as this.

Q. Is it possible that where such an interval of irregular menses does appear, the first onset of puberty having come on, the girl's mother may think that the girl has attained puberty and would require a certificate from you to that effect?

A. If she has actually had puberty and if it is not continued, then it is quite possible for the mother to require a certificate from us.

Q. Are you aware of the fact that irregular menses at first appear at intervals of 2 or 3 months?

A. Yes.

Q. Then is it possible for mothers to come to you for certificates in such cases?

A. I think no mother will come to us in such cases. Where there is a stop of six months, in those cases they come to us for certificates.

Q. Medical ladies' opinion of what puberty is some times differs from a lay woman's opinion. Do you know how a mother tests whether a girl has attained puberty or not?

A. The mother decides by the appearance of menstruation that the girl has attained puberty.

Q. Is that the only test you generally apply?

A. If there is any complete sign, that is taken as the sign of menses for the time being.

Q. Do you think that a mother expects you to give a certificate of puberty when there has been absolutely no symptom of puberty? Would that not be a stupidity for her to do?

A. As far as I know those certificates are generally asked for in the dispensary here.

Q. I want to know why a mother wants a false certificate. What is the object of this certificate?

A. From my experience I have come across girls in whom the development is indefinite and even though they couldn't have menstruated, the mothers falsely represent that they have menstruated and they want a certificate simply because they want to send away their girls to their husbands' houses.

Q. Excuse me for putting you a medical question. Supposing a girl is brought to you, what test would you apply to show whether she has attained maturity or not?

A. I cannot prove at the moment whether she has menstruated or not; but by an internal examination, it can be ascertained.

Q. Where girls have attained their age, will you not be in a position to say at once from the outward appearance whether they have attained their ages or not?

A. There are cases which I cannot decide at once.

Q. Do you mean to suggest that there are cases in which it could be absolutely certain that a girl has not matured?

A. Yes.

Q. Is it from the outward appearance or the internal examination of the girl?

A. It is from the internal examination.

Mr. Mitra: Will you please tell me from your experience if the girls in India attain puberty earlier than in America or Europe?

A. (Dr. Roberts.) I think the age is same.

Q. Don't you think that the climate or the nature of the food, etc., has got any influence over the attainment of puberty?

A. I have never observed anything of the kind.

Q. Here witness after witness has stated that the Brahmin girls attain puberty earlier than other girls. What is your opinion about this?

A. I couldn't say anything as to that.

Q. Can it be in any way connected with the practice of early marriages in them?

A. I have no answer on that point.

Mr. Shah Nawaz: Leaving aside the customs and the religious feelings of the people, from the medical point of view, what should be the ideal age for consummation?

A. (Dr. Vaughan.) Not under 16.

Q. What is the age of puberty in America?

A. (Dr. Roberts.) 11, 12 and 13.

Q. What is the average in Punjab?

A. 13.

Mr. Kadri: Some of the people have said that infantile mortality and maternal mortality which are so high in India are more due to frequency of maternity than to early maternity. May I know what is your opinion about this point?

A. (Dr. Vaughan.) It sounds all right. I think frequency of maternity is one of the great causes for high infantile and maternal mortality.

Q. Similarly is not early maternity following early consummation a potent factor of this high mortality?

A. I cannot say that.

Q. Supposing we made a law penalizing consummation before a particular age say 15 or 16, then in the course of your professional experience if you come across a breach of this law, would you report it to the authorities?

A. The doctors' position is delicate. I will not report.

Q. You say the mothers come and ask for certificates to the effect that the girls have attained their age even though it is not so. What is the object of getting these certificates?

A. The mothers consider it a disgrace to send them to their husbands' houses when they haven't menstruated. So these certificates are asked for.

Q. Did you ever ask them why they require these certificates?

A. Our assistants had asked them. The reply is that, they want to send their girls to their husbands' houses and they won't take them unless they have menstruated.

### Oral Evidence of Mr. K. L. YENKATARAM, Bar.-at-Law.

(Madura, 30th November 1928.)

(Rai Bahadur Pandit Kanhaiya Lal presided.)

Mr. Kanhaiya Lal: Are you an advocate practising in Madura?

A. Yes.

Q. How long have you been practising?

A. Since 1917.

Q. Are you an inhabitant of this part of the country?

A. I am native of this town.

Q. You belong to the Sourashtra community?

A. Yes.

Q. What is the usual age of marriage among the Sourashtras?

A. The tendency for the past two or three years has been to raise the age. Girls are married at 13 or 14 usually. Marriages are celebrated after puberty now, with puberty concealed. The marriage is strictly to take place before puberty but it is now concealed.

Q. Before these two or three years I understand marriages used to take place before puberty.

A. Yes. That is still the practice except that when marriages are held after puberty the fact of puberty is concealed.

Q. In other words the community regards marriage celebrated after puberty as reprehensible?

A. It does, but the tendency is to raise the age of marriage. It was proposed at a Conference that every marriage should take place after puberty, but the Conference did not admit the proposal.

Q. When was the Conference held?

A. Last year or two years back.

Q. Did you attend that Conference?

A. Yes.

Q. Was any resolution passed at that Conference in connection with the age of marriage?

A. They did not pass any resolution. The leaders said that they would try to raise the age of marriage but 'would not pass any resolution, consenting to post-puberty marriage'.

Q. They did not pass any resolution about the age of consummation either?

A. They did not.

Q. No question was raised as regards the validity or otherwise of post-puberty marriage?

A. No. When some people said that a resolution regarding post-puberty be not passed, the leaders said, let us not pass any resolution but in practice we shall try to raise the age of marriage. But there is nothing on record.

Q. Has any question about the validity of post-puberty marriage ever been raised in this Presidency?

A. I don't think.

Q. And these marriages are always regarded as valid?

A. Till now no question has come before the court of law.

Q. Have you come across any evil consequences resulting from early consummation and early maternity among the members of your community?

A. The children that are born are not strong enough.

Q. Have the mothers also suffered?

A. They have suffered. The mothers at the age of 25 look as if they were old women.

Q. Can you give any concrete instances of girls giving birth at 13 or 14 and dying or suffering?

A. I do not remember of any death. I have seen many instances where girls look very old women.

Q. Of what age were these girls when they gave birth to children?

A. 14 or 15.

Q. Do you think early consummation tends to devitalise the general health?

A. It does.

Q. Have you come across cases in which either sterility or tuberculosis or some other disease has resulted from early consummation or early maternity?

A. As to disease I can't say definitely, but the appearance of old age at a very young age is very common.

Q. Would you suggest any remedy for this state of things?

A. I would suggest legislation fixing the age of marriage.

Q. What age would you recommend?

A. I would recommend 14 or 15.

Q. Do you think it will be generally acceptable to the Sourashtra community?

A. In the enactment of this law I would do what England did with regard to the law of property. There must be a section inserted to the effect that the Act will come into force only after two or three years and in that period the people will understand the law and adopt it. I think everybody will then acquiesce in the law.

Q. Do you think it will be acceptable to the Brahmin community?

A. Yes, I think so. There will be a great deal of opposition to any law

fixing the age of marriage subsequent to the age of puberty, but they will acquiesce when the Act will be passed.

Q. As regards non-Brahmins?

A. Among non-Brahmins there would be no opposition at all.

Q. Do you think marriages among them are always celebrated after 15?

A. Even before 14 or 15 marriages take place among the non-Brahmins.

Q. Is it in a small number of cases or a large number of cases?

A. In a small number.

Q. Do you think they will agree to this legislation?

A. I think they will agree.

Q. Suppose there is such a legislation would you as an auxiliary to that legislation have a law fixing the age of consummation?

A. If the age of marriage is fixed there would be no need for fixing the age of consummation.

Q. But suppose by law you fix the age of marriage at 15. A man may celebrate the marriage at the age of 13 and pay the fine or other penalty that may be prescribed and there will be no law thereafter to prevent consummation, unless we have another law fixing the age of consummation.

A. But that can also be evaded by undergoing the punishment that may be imposed.

Q. But the difference will be that in the case of marriage law there can be only one punishment, but in the case of consummation, every act of consummation repeated will be an offence and will lead to conviction.

A. What I think is that if the age of marriage is fixed at an earlier age and the age of consummation at a later date it would be very difficult to find out cases of cohabitation before the age fixed for consummation.

Q. But to stop persons, who would risk disobedience of the marriage law, a law fixing the age of consummation would be needed.

A. That law will be needed in that case.

Q. What age would you fix for consummation then?

A. The same age. I do not want to make any difference.

Q. Suppose we have no marriage legislation, would you recommend a law fixing the age of consummation as the next best step?

A. I would.

Q. What age would you recommend in that case?

A. 14 or 15.

Q. Would you go upto 15?

A. I shall put 15 as the age of consummation.

Q. Do you think it will be generally acceptable to the people in this part of the Presidency?

A. I think so.

Q. Both Brahmins and non-Brahmins?

A. Yes. But in any such enactment there must be a suspension period, that is to say, a difference between the date of enactment and the date at which it is to come into force. I suggest this proviso because of what happened in England with regard to the law of property. They found it very difficult to consolidate the law of property. It was very revolutionary. I think they passed the law in about 1920 and it came into force only in 1925. Within that period they adjusted themselves to the law.

Q. I may tell you, in one province a rule has been made that no boy shall be allowed to go in for the school final examination if he is married after a certain date. The rule was to take effect two years later. Do you think a provision of that character could work in this Presidency and postpone the date of marriage?

A. That will tend to educate the people at least.



Q. It is compulsory in the sense that you can start your education and get yourself admitted, but you cannot go in for the school final examination if you are married after the promulgation of the rule.

A. I think some such provision would be useful.

Q. If there is a law fixing the age of marriage would you make the offence cognizable or non-cognizable?

A. It will be better to make the offence cognizable.

Q. Irrespective of age?

A. The whole thing will depend upon the working of the police.

Q. If you raise the age to 15 would you make it cognizable or non-cognizable?

A. We can change the procedure and make all the offences cognizable.

Q. Would you require that all marital cases should be enquired into by higher police officers like the Circle Inspector or the Deputy Superintendent of Police because of the danger of harassment?

A. We need not make any difference.

Q. Would you not as a general safeguard lay down that all marital cases should be enquired into by higher officers of the police?

A. I would like to have such a safeguard.

Q. Would you further recommend that in marital cases a preliminary magisterial enquiry should be made in order to eliminate vexatious and malicious cases?

A. Yes, I would recommend that.

Q. At present cases under 12 go to the Sessions and cases above 12 go to the magistrate. Would you recommend that all these marital cases after the preliminary enquiry should go to a matrimonial court consisting of a magistrate and two non-officials?

A. I would recommend such a thing.

Q. In that case would you have these non-officials as assessors, or as jurors or as co-judges taking part both in the sentence and the assessment of the guilt?

A. I would prefer them as co-judges.

Q. You think suitable men to work as co-judges with the judge would be available?

A. Yes, I think so.

Q. In each district?

A. Yes.

Q. It has also been suggested that all marital cases should be made compoundable with the sanction of the court, so that in suitable cases the prosecution might be allowed to be withdrawn and good relations restored?

A. May be made compoundable with the sanction of the court.

Q. Irrespective of age?

A. Yes.

Q. If we have a law fixing the age of marriage and also a law fixing the age of consummation would it not be desirable to have a system of registration of marriages, giving the names and ages of the marrying parties?

A. I would prefer to have a registration system of that kind.

Q. Who should be the authority to maintain these registers?

A. The registration department which is now working.

Q. It will charge fees. A better and cheaper system involving no extra expenditure to the people would be to require the authorities now registering births and deaths to take up this work also.

A. But we can utilise the registrars without charging any fees. If you can't utilise the present registrars a new system of registrar of marriages will have to be tried.

**Mrs. Nehru:** Do the Sourashtras reside in Madura alone?

**A.** They are in other towns also. They are found in Madras, Mysore, Tanjore, Trichinopoly and other places.

**Q.** Are they a very big community?

**A.** They number about 1½ lakhs.

**Q.** Individuals or families?

**A.** Individuals.

**Q.** What is the condition of women's education in that community?

**A.** Most of the girls are going to schools now-a-days.

**Q.** Has your community started any school?

**A.** There was a school started privately but it was taken over by the municipality.

**Q.** Have any girls gone in for higher education?

**A.** Very few. In fact, not at all. Some ladies are teachers and that is all the higher education they have got.

**Q.** Have any received college education?

**A.** There is no instance.

**Q.** Is there a widespread desire amongst the girls and boys to get higher education?

**A.** There is a desire.

**Q.** Is widow remarriage common in your community?

**A.** It is not allowed.

**Q.** Have any cases taken place?

**A.** No.

**Q.** Do you consider yourself religiously bound to marry before puberty?

**A.** Whatever it is, they think that even if the girl has attained puberty they ought not to say so until she is married.

**Q.** What is generally the age of consummation?

**A.** Soon after puberty is attained.

**Q.** When is puberty attained?

**A.** Puberty is attained between 12 and 15.

**Q.** Are there any cases of consummation before puberty?

**A.** No.

**Q.** Have you heard of any case of consummation before puberty?

**A.** No.

**Q.** Have you got in your community a large number of widowers?

**A.** Yes, there are.

**Q.** And they marry second and third time?

**A.** They do.

**Q.** Do a very large number marry a second and third time?

**A.** Not so large. There are many who marry second and third time.

**Q.** When they marry second and third time what is generally the age of the girl?

**A.** 15, 16 or 17.

**Q.** How can they get such grown up girls when the age of marriage amongst you is so low.

**A.** They are able to get now-a-days. There are girls who are unmarried even at 17 and even last year many girls were married at the age of 17.

**Q.** How many such cases do you know?

**A.** About 20 instances.

**Q.** In one year in the city of Madura 20 Sourashtra girls were married at 17?

A. Yes.

Q. You don't mean to say that all these widowers who marry second or third time get girls of 17?

A. Not all. Some four or five get.

Q. Are people generally realising the evil effects of early consummation and early marriage in your community?

A. They are.

Q. What is the feeling of the women themselves? Have you ever had a talk with them?

A. I have had a talk. Women are also favouring the idea.

Q. You had a talk among your own family or outside also?

A. With others also. I find they favour the idea.

Mr. Mulaliyar: You said the age of marriage and the age of consent may be fixed by legislation at 15.

A. I said both the ages should be same.

Q. You say there would be not much objection among the Brahmin community?

A. I don't think.

Q. What is your ground for saying that?

A. My ground is that now-a-days the tendency is to marry at a high age and the kind of opposition that we now see will disappear if the law is enacted in course of time by all people discussing this thing.

Q. You think once the enactment is passed they will abide by it?

A. I think so.

Q. Have you had any discussion with Brahmin friends?

A. I have had.

Q. What is the result? Do you find them in a frame of mind agreeable to accept this suggestion?

A. I am led to the conclusion that they will acquiesce in such an enactment.

Q. Have you discussed this among the members of the bar either formally or informally?

A. I have had a discussion.

Q. What is the conclusion that you have come to?

A. The conclusion that I just now mentioned.

Q. Most of the members are Brahmins and most of them would acquiesce in the enactment if once it is passed?

A. Yes.

Q. Do you think that the opposition is not real, and they would only come forward and say that they are not in favour of it?

A. Many would not like to declare it openly that they are in favour of the enactment.

Q. But in your private talks you have come to believe that they are in favour of it?

A. I have come to believe that.

Q. If some witnesses come and say that practically everyone will be against it, are they correct?

A. It will not be correct. I say they will acquiesce in the enactment when once it is passed. Although if they are openly asked to declare their opinion they will of course say they are against it.

Q. What is your authority for saying that they will acquiesce in it later? Have they said so?

A. That is the tendency of the people.

Q. Acquiesce in it as an inevitable evil forced by the State or would they consider that it is for their benefit?

A. Some under compulsion and some thinking that it is a measure intended for their benefit.

Q. How many would look at it as a beneficial measure?

A. Majority would look at it in that way.

Q. If we are informed that a vast bulk of them, 99 per cent. of them are against any legislative interference, what value do you think we should place on such an opinion?

A. I think no value should be placed.

Q. If we get a petition signed by every member of the bar saying that they would not tolerate such legislative interference do you think we should ignore it?

A. I think so.

Q. How long have you been at the bar?

A. Since 1917.

Q. You have mixed fairly intimately with the members of the bar?

A. Yes.

Q. You have had occasion to find out their inside opinion?

A. Yes.

Q. Is it on account of the knowledge of the truth that you advise the Committee not to place much reliance on a representation even if it takes the form of an open and formal representation? Would you consider the petitions?

A. It is my considered opinion that inspite of such petitions it would be wise to ignore them.

Q. On the ground that we know better than they do or on the ground that they are not stating what they really feel to be true?

A. On the ground that they are not stating what they feel to be true.

Mr. Mitra: May I infer that you think the Brahmin lawyers are demonstrably opposing it yet in their heart of hearts they really desire some such legislation?

A. Not that they desire, they do not really oppose.

Q. In other words they also feel the evil effects of early consummation and if there is any way of getting out of it they will readily embrace the opportunity, yet openly showing their respect for custom?

A. Yes.

Q. Have you any experience of the orthodox Brahmin opinion in the villages also?

A. No. But I don't think there will be any difference between the people in the town and the people in the villages.

Q. In fact you know even in villages amongst Brahmins also marriages take place later than 12?

A. There are cases.

Q. There is no real social ex-communication or social pressure on them. In fact, marriages have taken place after puberty though puberty is concealed and everybody tolerates it.

A. Yes. They are tolerated.

Q. If there is a marriage law, do you think there should be any exemptions in any hard cases?

A. I don't think.

Q. In case of infringement of this marriage law should the punishment be fine only or imprisonment also?

A. There should be imprisonment also. It will be easy to pay off the fine.

Q. Will it be treated as an additional item of expenditure in the ceremony itself and tell more on the poorer people?

A. Yes.

Q. You belong to the Sourashtra community?

A. Yes.

Q. You don't think in your community there will be any violent agitation?

A. No.

Q. You know some non-Brahmins are also trying to imitate Brahmins.

A. I don't think they are trying to imitate.

Q. There is evidence that some of the higher class non-Brahmins are trying to imitate the Brahmins in this system of early marriage?

A. I don't think they are imitating. They are all doing this, that is all.

Mr. Shah Nawaz: Do you represent the views of the Sourashtra community?

A. I believe so.

Q. I believe you are 43,000 in Madura town?

A. Yes.

Q. What is the population in the whole Presidency?

A. It would be more than 1½ lakhs.

Q. Do you claim to be Brahmins?

A. Yes.

Q. You are in fact Brahmins?

A. Yes.

Q. You say you would like to fix the age of marriage and the age of consent at 15 provided two years are given for the act to come into force. Don't you think many many pre-puberty marriages will be performed during that time. There is a danger. In Kashmir there is a law made that no marriage should take place before 12 and they gave 4 months and I know so many marriages before 12 were performed. Don't you think there is a danger of innumerable pre-puberty marriages taking place if we give that much period for the Act to come into force?

A. I don't think so. I say so because even now I see that post-puberty marriages are taking place, only the fact of the girl having attained puberty is not given out. For this reason I don't think what happened in Kashmir will happen here also.

Q. Do you think majority of the marriages are performed after puberty?

A. No, most marriages are performed before puberty, but if two or three years were given the people will adjust.

Q. For all I know, the girls of 5 or 6 may be married?

A. That may be in some parts of Northern India. I understand for instance girls are married even at 2, 3 or 4 in Bombay.

Q. Do you think orthodox people would not marry their girls between that period?

A. I don't believe so. I don't think they will evade the law during that period.

Q. Do you think there are some people who are very fond of imitating Brahmin custom of pre-puberty marriage?

A. They are not imitating the custom at all. The truth is that for some years this custom has been among all communities. The other communities have given up this custom and the Brahmins have not. It is not a question of Brahmins having another system and the non-Brahmins having another system.

Q. Do you think this belief about religion enjoining pre-puberty marriage, is all a bogus belief?

A. About religion I would submit this. What the opposition say is this. The opposition say that Vedic mantrams do not contemplate that the girl has attained puberty at the time of marriage. The mantrams are applicable only to virgin girls and they say post-puberty marriage can be no marriage at all. But what I say is that marriage is not performed according to the Vedic mantrams at all.

Q. Don't you think it may be a dangerous step to go from no limit to 15 for marriage? Don't you think we must be very cautious in order to pacify the feelings of Brahmins and we may begin at 12?

A. We are giving two or three years as a suspension period and if after that period we find that the opinion is that the age should be reduced we can pass a law modifying the previous enactment.

Q. You want to prove the feelings?

A. Yes.

Mr. Kadri: Has this question of post-puberty marriage ever been discussed at any of the meetings of your caste association?

A. It was discussed in a Conference held about two years ago.

Q. And then they came to the conclusion that the age of marriage should be increased?

A. Yes. They are now doing it at 13 or 14.

Q. May I take it that there are very few pre-puberty marriages in your caste?

A. Very few, if any.

Q. What do you think would be the proportion of pre-puberty marriages to post-puberty marriages?

A. Pre-puberty would be high in proportion, but the tendency is to raise the age.

Q. What is the condition of education in your community?

A. They are not so well educated.

Q. Would you class them as backward classes?

A. In the Government records it was and I think even now it is classed as backward community.

Q. Can you support your opinion about fixing the minimum age of marriage at 15 by an shastric texts, the spirit of the shastras if not the letter? Can you say for instance the ancient Hindu girls were married at a very late age on account of considerations of education, say?

A. It is well-known that in ancient India there was no early marriage at all.

Q. You can't give any text?

A. I think there is no text which fixes any age. What the opposition say is that the Vedic mantrams do not contemplate post-puberty marriages. But I think even among the Brahmins marriages are not performed in many cases according to the Vedic mantrams.

**Written Statement, dated the 19th August 1928, of Sri Kanchi Kama-koti Peethathipathi Jagathguru, SRI SANKARACHARYA SWAMI-GAL, MUTT OF KUMBAKONAM, Thiruvodagam, Madura District.**

1. None.

2. The age can be raised in respect of sexual intercourse by persons other than husbands because it may be a further check on improper seduction of girls for immoral purposes. In the case of husbands (subject to answer to question 21), the existing age may be retained as the tendency is not to have consummation before 13.

3. Not frequent—When the said crimes are frequent, the raising of the age might have reduced occurrence of such crimes—but the constitution of a Hindu family with a number of relations in the household always instinctively vigilant in such matters, conception of morality and chastity, censure attending upon parties to the crime and the natural vigilance that are ordinarily found in even neighbours, etc., in a locality to guard and help each other against occurrence of such crimes are stronger preventives.

4. (1) No—consummation before 13 extremely rare if at all.

(3) Marriages take place both before and after 13. The question of time of consummation does not affect time of marriage.

*Castes where marriage should be celebrated before puberty.*—Time of consummation does not affect.

*Castes where marriages are celebrated only after puberty.*—Question does not arise. Even if puberty occurs before 13 marriages are not celebrated before 13.

*Castes where marriage may be celebrated either before or after puberty.*—Even in such cases time of consummation will not seriously affect the time of celebration of marriage.

5. Some cases after 10 and before 12, 12 to 13½ general. After 13½ few cases. Difference exists.

6. (1) No.

(2) Few cases.

(3) No.

7. No Sastric authority for practice of consummation before puberty, if it exists anywhere. It is prohibited. The practice of consummation at puberty is rare. Consummation from 4th to 16th day is shastric. Shastras provide expiation for omission.

8. Yes among higher castes. It coincides with the consummation of marriage. It is performed after the attainment of puberty.

9. Yes—(but as an abundant caution, persons interested will postpone consummation in cases where necessary having regard to the physical development). No fixing of age, etc., by legislature is necessary in respect of marital cases. It will be only injurious in such cases.

10. 13½ generally.

12. No. Modern habits, unhealthy food, life in towns and overcrowded places, want of restraint in sexual intercourse, absence of knowledge in the matter of child-nursing (formerly aged women in families were experts in this matter), these and some others are the real causes.

14. Nothing special about women—parents will desire consummation of their children within a reasonable time after puberty. The health of the girl, her age, the convenience of the husband to take his wife under his protection and other considerations will be given due weight.

17. Subject to answer to question 21, separation desirable. In the case of husband punishment should not be such as to involve the incidents of degradation, loss of caste, reducing him to poverty, etc., as (apart from the intended deterrent effect) the wife herself will be ruined thereby.

20. Subject to answer to question 21. (If one of the alternatives is obliged to be chosen) the former.

21. By means of education and by propaganda of Hindu Dharmasastras (true Sanāthana Dharma) dealing with this and allied matters which will give correct knowledge as to how to get and enjoy healthy life Material and spiritual happiness and not on penal legislature.

# Oral Evidence of Bramha Sri YEGNASHWAMI SASTRICAL.

(Madura, 30th November 1928.)

(Vernacular.)

(Rai Bahadur Pandit Kanhaiya Lal presided.)

*Mr. Kanhaiyahal:* Are you the agent of Shri Swami Shankaracharya?

A. I am the representative of H. H. Shankaracharya of Kamakoti Peeth Kumbakonam for this purpose.

Q. He has deputed you to give evidence before us?

A. Yes, so far as it relates to the religious view point.

Q. May I know what is the usual age of marriage among the Brahmins of this Presidency?

A. From 8 to 12 is the shastric age followed among the Brahmins.

Q. Is it also followed among the non-Brahmins?

A. In some castes it is so, but it is not universal.

Q. Is it considered reprehensible to marry after puberty?

A. There is that feeling that it is reprehensible to marry after puberty among Brahmins.

Q. If a girl attains puberty during the celebration of the marriage is not some remedy provided by the shastras?

A. There is a *prayaschitta* provided.

Q. Do the Shastras also contemplate cases where a girl has remained unmarried by reason of the neglect of the father despite puberty?

A. As marriage is a *sanskaram* for girls as Upanayanam is for boys, if marriage does not take place for any reason the girl is allowed to choose her husband as in *apattkul*.

Q. Is it a sin in that case?

A. If there was no intention on the part of the girl it is not considered a sin even if the marriage takes place after the commencement of menstruation.

Q. Is a *prayaschitta* necessary if the marriage takes place after puberty in such a case?

A. There is a *prayaschitta* necessary even in that case.

Q. Why should a *prayaschitta* be necessary if there is no sin?

A. If the time prescribed for that is passed, there is a *prayaschitta* for that. For the fault involved to that extent there is a *prayaschitta*.

Q. Does not Manu lay down that a girl in those circumstances should wait for three years after puberty?

A. Yes.

Q. Does not Manu also lay down that in such an event if a girl selects her husband after three years from puberty, she incurs no sin whatsoever?

A. If Manu says that there is no sin it merely means that she is not at fault, but that does not mean there is not expiation needed. The father is at fault; but as the marriage took place at a time when it ought not to take place, therefore, there is a certain amount of defect in the marriage which she ought to regularise and she is also at a fault to a certain extent.

Q. Do you mean to say that if a father marries his daughter within three years after puberty, he incurs sin?

A. There is a certain defect attached to the marriage and to that extent he is also at fault.

Q. Does not Manu say that neither the girl nor her husband commit a sin by such marriage?



A. As the girl has to be married therefore there is no sin in marrying her. There is *prayaschitta* in Hemadri.

Q. Does it expiate the sin?

A. The sin is expiated only so far as the girl is concerned and not the person who neglects to do the marriage. That sin which would attach to her by her remaining unmarried will go.

Q. I would like to draw your attention to the text of Bodhayana which says that if a man does not give his girl in marriage within three years after puberty, he commits *Bhrunkathia*, does it not imply that the sin of *Bhrunkathia* accrues if three years are allowed to elapse after puberty?

A. All that the text says is that the marriage should be done at least within three years. It does not mean that there should be no sin at all because it may be that the father may be in jail. For such exceptional cases there is not so much sin attached to him. If he neglects to perform the marriage, then there is much more sin.

Q. Has it not been provided by Ashvalayana that in cases where the marriage has been delayed for some reason or other beyond puberty a cow can be given as a gift to expiate the sin?

A. This is a *prayaschitta* which has been laid down by that particular author. Other authors have fixed different kinds of *prayaschittams* for the same offence.

Q. Does this *prayaschitta* expiate both the father and the girl?

A. I say that the girl commits no sin.

Q. Is the father expiated?

A. For the marriage to become efficacious as a sacrament, the father must perform the marriage at the proper time and since he has failed to do that, the sin that is attached to the father on account of that, is not expiated.

Q. Is any *prayaschitta* laid down for the father for expiating the sin?

A. When once it is stated that the sin committed is like *Bhrunkathia*, then whatever expiation is provided for *Bhrunkathia*, the father ought to undergo that expiation.

Q. Is the father exculpated if he undergoes that expiation?

A. The sin that he has incurred by having neglected to do that particular duty is expiated.

Q. There are rules laid down by the *shastras* providing for marriage even after puberty. If so, can you not celebrate the marriage after puberty by complying with those rules?

A. If the marriage is done intentionally after puberty then there is no expiation at all for it but if it is done involuntarily or on account of other circumstances there, there may be an expiation for the father but it will not be an efficacious marriage if it is done like that.

Q. Don't you think that it is a good sacrament if the ceremonies are gone through?

A. What I said was that she has waited to be married and she has not been married and her father has not given her in marriage and then as a result of this she has herself married and in that case there is no sin to her. But for a voluntary and wilful act, there is no expiation at all.

Q. So if the girl is married after that, is not her marriage a good sacrament?

A. It is not said that she has wilfully done it. Of course she has waited and it is the duty of the father to get her married and if the father has not done it she can give herself in marriage. What I say is that the marriage has to be done and she has done it and there is no sin attaching to it.

Q. Cannot the marriage remain a good sacrament?

A. So far as she is concerned all that can be done has been done; but the marriage itself is tainted by a defect because it did not take place within the prescribed time. So it is always a defective marriage so far as Yajna and other ceremonies are concerned.

Q. Does Manu anywhere say that it is a defective marriage?

A. Manu need not say specifically that it is a defective marriage.

Q. Do you mean to say that it is a less approved sort of marriage?

A. Yes.

Q. Is it not all the same a good and valid marriage?

A. I say that she is not entitled to the pre-puberty privileges which should have accrued to her if she had married before the prescribed limit.

Q. Is it not a good marriage for the *shradha* ceremony and for inheritance of the property?

A. For the *shradha* ceremony it is not a good marriage because the *shastras* do not approve of this marriage. But for legal purposes, it may be a different thing. I don't know anything about it.

Q. What is the authority for your saying that if a girl is married after puberty, she is not fit to take part in Yagya?

A. A thing is valid only if it is performed, according to the *shastras*, at the time it is laid down that it should be performed. In other words it may be performed after that but that does not mean that it is properly performed to give the benefit which the *shastras* describe and this *samskara* is to be performed within a prescribed time and if it is performed after that it is invalid for those purposes mentioned by the *shastras*, for instance in the performance of a Yagya, a girl who is married after puberty, cannot take part. That is obvious from the very nature of these injunctions.

Q. It has been pointed out to us by learned Pandits that the *shastric* injunction requiring pre-puberty marriage is only of a recommendatory character. Would their opinion affect your opinion in any way?

A. If that is the idea, the *shloka* should run in that way. It does not run in that way and therefore it is mandatory.

Q. All the same provision has been made for cases of marriage both before and after puberty. Is that not so?

A. If marriage can be done both before and after puberty then if both forms are permissible, where is the necessity for a *shastra*.

Q. If in the interests of having a stronger progeny a law is to be made fixing a minimum age of marriage, what age would you recommend?

A. The question of marriage is a different thing. That is a *samskara* according to the *shastras* and the question of children is entirely a different thing. So I cannot fix anything.

Q. Have you any objection to an age being fixed for consummation of marriage?

A. The *Shastras* say that an approach should be made at the time of the menses and that if it is not done, it is a great sin.

Q. Is it recommendatory or mandatory?

A. It must be a mandatory thing.

Q. Does this apply to a man who has got children?

A. This applies only to the first menstruation and after the children are born, it does not apply. The first born child is called the "Dharma Janana".

Q. Does Manu say so?

A. Yagayavalka says so. He says that the first born child is born for *dharma* by an injunction. Others are born on account of *kama*.

Q. Therefore am I to infer that this is mandatory only so far as the first born child is concerned?

A. Yes.

Q. What age would you recommend for consummation?

A. I have no authority to say that 14 should be the age of consummation. My only authority is that it should be only after puberty.

Mr. Mitra: Is it true that with the change of circumstances and lapse of time, customs also do change from time to time?

A. We can change our habits and methods and we can even change the laws which the kings make but there is no rule or authority to change, these *smritis*.

Q. Did not the *Smritikaras* change with the times and accept the changing conditions.

A. There are two meanings for the word "change". One is, ourselves to fix a new law and say that it should be followed in violation of the old law. Another is where a manner of doing things is prescribed and when we find that it may not be possible for us to do so exactly in the same manner, we have a lesser way of doing the same thing, provided the spirit is kept up, for instance, if 10 cows are to be given, 1 cow can be given provided the spirit is kept up.

Q. Is it applicable to Kali Yuga? Are you aware of the force of Parashara *Smriti* in that Yuga.

A. I am aware of the Prashara *Smriti* and there is no reference to Kali Yuga.

Q. Do you mean that all *smritis* are applicable even now?

A. Yes, they are applicable to all Yugas.

Q. Is it enjoined by the *shastras* that a brahmin can marry his maternal uncle's daughter? Can you quote anything in the *shastras* to support this custom?

A. The *shastras* have not accepted it.

Q. Is that custom not in force in this part of the country?

A. It may be the custom but we don't accept that it is according to *shastras*.

Q. Is it an approved custom accepted by brahmins and followed by some brahmins here?

A. This is included in the category of *Deshachara*.

Q. Do you admit that things change from time to time?

A. That merely means that both kinds of practices are approved by the *shastras* and that they are following one set of practice instead of another which was followed in ancient times.

Q. Do you mean to say that to marry the maternal uncle's daughter is allowed by the *shastras*?

A. Some *grantha* writers have written that it is according to the *shastras*. They have said that it is the custom of the country.

Q. If some say that marriage can be celebrated at 16 and if the majority of the people follow it, will it be accepted as *sadachara*?

A. There is nobody who has written such a thing at all.

Q. Has not *susruta* recommended the age of 16 for the consummation of marriage?

A. He has not said that it should not be done before 16. He came to write about the physical state. In other words he came to write about the body. We cannot accept even if *susruta* says so because it differs from our experience. Our own experience is that even at 14 good children are produced. So it all depends upon the age of puberty and whether puberty has been attained at the proper time and in the natural manner. For instance my father is now 84; my grand-father was aged 88; we are a long-lived family and every one of us was married to a girl of 8 or 10 and consummation took place at 12 or so and they are all quite alright. I doesn't matter much at what age consummation takes place but if there is something wrong in the blood, then 16 would not be even a proper age and *Susruta* while fixing 16 may have in mind a girl who couldn't have better blood.

Mr. Shah Nawaz: Will you tell me whether this *shloka* relating to pre-puberty marriage and consummation, applies to all castes or only to brahmins?

A. It is applied only to brahmins. Other castes are also following it.

Q. Is it binding on others?

A. It is not prescribed for others but they are doing it.

## Written statements of persons not orally examined:

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### Written Statement, dated the 13th January 1929, of Mr. P. V. UPADHYAYA, B.A., LL.B., Pleader, Karkala.

During your enquiry to find out means to prevent child-marriages, I feel, it is proper to bring to the notice of your committee another serious defect in our marriage system, viz., the marrying of young girls to very old men. To avoid this unhappy state of affairs. I beg leave to suggest to your Committee to recommend invalidating and penalising (if necessary) the marriage of a man with a *minor maid* whose age is less than half his age. With a view to encourage the remarriage of widows I have suggested that widows (though minors) might be excluded from this rule, and major women have been excluded because they are able to know their interest.

This suggestion, if accepted, would, I hope, be useful in another direction. It is rare that our girls remain unmarried even after they attain majority. To a middle aged man of 36 (or more) wishing to marry will have of necessity to seek the hands of widows only. This rule therefore would give a great impetus to the reform of widow remarriage.

Assuming that your Committee would realise the usefulness of this measure, I have not given its objects and reasons at length. If called upon I shall state them in detail.

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### Written Statement, dated the 27th November 1928, of Dewan Bahadur Sir T. DESIKACHARI, Kt., Trichonopoly.

1. There seems to be no dissatisfaction felt with the state of law as to the Age of Consent as contained in Sections 375 and 376 of the Indian Penal Code. Likewise as far as I am aware, no real hardship has been wrought by Act XXIX of 1925.

2. In justification of the Amending Act X of 1891, raising the Age of Consent from 10 to 12 the following passage occurs in the statement of objects and reasons:—

“The limit at which the Age of Consent is now fixed (i.e., ten years) favours the premature consummation, by adult husbands, of marriages with children who have not reached the age of puberty, and is thus, in the unanimous opinion of medical authorities, productive of grievous suffering and permanent injury to child-wives and of physical deterioration in the community to which they belong.”

That puberty is ordinarily not attained before the age of 14 was stated to be the justification for raising the Age of Consent to 13 years inside marital relations and 14 years outside marital relations. An advance on the present law is justified by the very reasons adduced to support the amendments of 1921 and 1925. I am of opinion that at the age of 14, girls do not attain sufficient physical development or maturity of understanding so as to enable them to form a correct judgment of the consequences of yielding to the temptations which might beset them. Following the analogy of Section 361 of the Indian Penal Code, I would raise the Age of Consent to 16 years *outside marital relations*. Inside marital relations, however, having regard to considerations of expediency, and orthodox public opinion, at the same time bearing in mind the necessity to allow sufficient time for physical development between the attainment of puberty and cohabitation, I would fix the Age of Consent at 14 years.

3. Crimes of seduction or rape are not frequent in this part of the country and therefore the effect of the amendment of the law made in 1925 is not noticeable, nor, as far as I can see, are any measures necessary to make the law more effective.

4. I do not think that in this part of the country married girls have cohabitation with their husbands within the prescribed age limit. At any rate no cases of this kind have come to my notice nor have such cases if any, general attention. Indeed at the present time even marriages, really betrothals, are often postponed to beyond the age of thirteen years and public opinion has so far advanced as to delay the marriage as long as possible or inevitable. Cases there are in which girls of very tender age—much below the age of 13—are permanently united in marriage with boys or adults, but, even in such cases, conditions have not been ascertained to exist which necessitate any steps being taken to make the provisions regarding the Age of Consent within the marital state more effective.

5. Girls ordinarily attain puberty in this part of the country between the ages of 13 and 14 in the higher and middle classes and at a later age among the labouring and agricultural classes.

6. My answer to this question is in the negative.

7. I do not believe that the practice of consummation of marriage before or at puberty is common in this part of the country. However, among the twice-born classes it is expedited after puberty within six months or a year for there is a notion that till *Garbhadhanam* the girl is not pure and cannot attend to all the duties of the household. I don't know of any mandatory religious injunction in this matter and there is certainly no mundane penalty for its breach. Early text writers, in social conditions far removed from ours, prescribe ultra-mundane sanctions; which are respected more in breach than in observance.

8. The answer to the 7th question covers this also.

9. I do not consider that the first show of puberty is a sufficient indication of physical maturity to justify consummation of marriage. The longer the consummation is postponed the better. That is my individual opinion. But having regard to the prevailing practice as indicated in an earlier answer I should put off the consummation to but a year after the attainment of puberty. I am, however, free to confess that as President of the District Health Association for many years, in carrying on propaganda work in the department of maternity and child-welfare I have had to note that there is often irreparable injury to the mother's health and that of her progeny by early maternity.

10. I take it this applies to conditions outside marital relations. Ordinarily at the age of 16 an Indian girl will be competent to give an intelligent consent to cohabitation with a due realisation of the consequences.

11. I am not in a position to give any specific instances of the kind contemplated in this question.

12. I have no doubt that early consummation and early maternity are responsible for high maternal and infantile mortality. Often before the age of 18, girls have 3 or 4 children successively, lose vitality and easily succumb to Tuberculosis, nervous ailments, and disorders otherwise avoidable.

13. I can't say there has been any further development of public opinion in this part of the country in favour of an extension of the Age of Consent in marital and extra-marital cases since 1925. People who have received education in Colleges and schools have mostly been in favour of an extension of the age limit but orthodox public opinion is against any extension.

14. This is a difficult question to answer. Generally women like to have their daughters beget offsprings early, in certain communities; but even here matters have progressed thus far as to make them postpone the early consummation of marriages.

15. Difficulties are experienced in determining the age of girls in connection with offences under Sections 361, 375 and 376. The registration of births is very defective and imperfect; horoscopes could be manufactured. As it is, we have to rely more or less upon medical opinion which again cannot be said to reduce or minimise the difficulties encountered in the determination of the exact age of a girl.

16. I should think the margin of error in determining the age would be

materially reduced or minimised if the Age of Consent is raised to 14 or even 16 years.

17. The existing provisions relating to extra-marital and marital offences are separated in the amending Act XXIX of 1925, and in my opinion they may be allowed to stand.

18. Within the marital state I should have the trial *in camera* with the aid of assessors specially selected and no prosecution should be commenced without the sanction of a responsible official, preferably the District Magistrate. In extra-marital cases the existing procedure of trials for offences may be allowed to continue.

19. I have suggested safeguards for cases inside the marital state.

20. In this part of the country I think penal legislation fixing a higher Age of Consent for marital cases is likely to be in consonance with public opinion rather than in legislation fixing the minimum age of marriage.

21. I think we must depend upon the progress of social reform and social propaganda in matters like this. At the same time I advocate strengthening the penal law to prevent infant mortality and the avoidable loss of valuable lives of mothers during their first confinement. This may seem paradoxical. But the most ardent social reformers and those who devote great attention to real practical work in the department of maternity and child-welfare while realising the necessity for progress have to proceed in the line of least resistance. It would not do to brush ingrained beliefs aside by pointing out that the reason of the early rules no longer exists. We have to let things adapt themselves to environments, social or religious which are already showing signs of speedy change and inevitable adjustment. I should avoid interfering with existing conditions by putting my settled conviction into actual practice, by legislative enactment. On grounds of expediency as well as sound legislation in matters of this kind, I should hasten slowly. For the present we may but make an advance in fixing the Age of Consent at 14 which is more than that in England. Besides the minimum age limit for "Vivaha" there are many other questions relating to the marital relationship in India which should be considered as public opinion becomes ripe enough to appreciate and welcome legislative interference. Till then legislation in such matters might wait.

### **Written Statement, dated the 8th February 1929, of Mr. R. SIYA-SWAMY AIYAR, Myslapore, Madras.**

Much angry criticism has been levelled against the Government of India for having agreed to the postponement of the consideration of Mr. Sarda's Bill till the receipt of the report of the Committee appointed to enquire into this subject. Though Mr. Sarda's Bill deals only with the subject of the age of marriage, it is obvious that the question of the age of marriage is intimately connected with the Age of Consent, and that it is neither desirable nor practicable to deal with one or the other subject until the Government and the country are in possession of the results of the investigation by Sir M. Joshi's Committee.

The main argument of those who advocate the fixing of a minimum limit of marriage is that it leads to premature child-bearing as the result of premature conjugal relations. India has suffered so long from the evils of child-marriage that it is absurd to contend that the postponement of the Bill for six months or even a year is dangerous to social welfare or to suggest that the Government is out of sympathy with the measure. The fact is that the attitude of the Government gives the impatient social reformer and the legislator a convenient stick with which to beat an unpopular Government. A practical legislature has to consider not merely what is theoretically best but also how far it is possible to introduce a change affecting the habits and customs of the people without doing undue violence to popular opinion.

The advocates of responsible Government and democracy must remember that when their goal is attained it would be impossible to carry any measure into law in the face of popular opposition. It is a matter of some difficulty to ascertain the real trend of popular opinion or how large a dose of social

reform may be administered without exciting violent opposition and serious discontent. The wisest course for a legislature anxious to secure steady progress is to take the line of least resistance.

The main theoretical considerations by which the age of marriage or consent should be determined are the welfare of the individuals concerned and the welfare of the society or race. From the individual point of view the primary question is: does the well-being of the parties to a marriage require the imposition of a minimum age limit and if so what that limit should be. Considered purely from an abstract point of view and having regard to the importance of the consequences flowing from matrimony, it might be suggested that the age of majority which the law presumes to be the age for contractual capacity should be fixed as the minimum limit of age for marriage. But there are numerous objections to such a limit. In the first place even in countries where marriage is looked upon as a contract between the parties the minimum age limit for marriage has been fixed below the age of majority. The minimum age limits for marriage for men and women are respectively 14 and 12 in Great Britain, Ireland, Australia, New Zealand, South Africa, Italy, Spain, and in 8 of the United States of America. To visit marriages below the age of majority with the penalty of illegality will be not merely opposed to the practice of most civilized countries but would also have the serious consequence of rendering the offspring of the marriage illegitimate. In India where marriage among Hindus is primarily regarded as a sacrament and a religious obligation in the case of women, it will be improper to refuse to recognise the strength of this conviction. Post-puberty marriages are certainly not illegal or invalid and they are as a matter of fact gradually coming into practice. But it would not on that account be advisable to introduce legislation regardless of the sentiments of the people. Speaking for myself personally, I should on theoretical considerations be in favour of fixing the minimum limit of age for the marriage of girls at 16 and for the marriage of boys at 18. But I should not consider myself justified in forcing my views upon society. Having regard to the fact that a considerable number of girls in this country attain puberty by the age of 13 and the religious objections of large sections of people to post-puberty marriage, we are driven to depart from the desirable standard to that of practical expediency. It is necessarily a question of degree and it is impossible to adopt any particular limit of age with any pretensions to logic or principle. Remembering that there is at present no limit fixed by law as the age of marriage for girls, the limit which in my opinion may be safely fixed at present is 13. This will be a sufficient step in advance for the present. The fixing of a minimum age does not imply that marriages will necessarily be celebrated immediately after the limit is passed. With the growth of education, with increasing economic pressure and with the daily growing difficulty of finding suitable bridegrooms, we may safely trust to the natural operation of these causes for the steady rising of the age of marriage.

Throughout the discussion of the age of marriage bill the consideration which has most largely weighed with the reformers is not so much the necessity for free choice of a husband by a girl but the necessity for the prevention of premature child-bearing. How far the element of choice by a girl should be encouraged and to what extent her own wishes and preferences should be consulted by her guardians do not find place in this controversy. The majority of our countrymen would probably be disposed to hold that the judgment of the parents of a girl is a far more valuable guide to a suitable selection than her own deceptive fancy and that the results of our present system notwithstanding the absence of any romance of love is far more favourable to the stability and orderliness of family life than the system of courtship and love matches and that the present system is quite compatible with the growth of affection and mutual fidelity, even more than the system of free choice by the parties, however drab and uninteresting our married lives may appear to the outside observer.

Coming then to the main argument urged by reformers in favour of a high minimum of marriageable age it has to be pointed out that their

argument assumes that a low limit of marriage necessarily involves a low age of consummation and that a low age of consummation necessarily involves premature child-bearing. The religious objections to the postponement of the age of consummation are being worn out and there are numerous cases in which consummation is put off for two or three years after the puberty of the girl without any social inconvenience. Legislation for postponing consummation till the girl completes 16 years of age would be much less open to popular objection than the raising of the age of marriage to 14. The reason however why our reformers do not have faith in a legislative postponement of the age of consummation without raising the age of marriage is that after the celebration of the marriage it would be impossible to object to, or prevent, the married couple from meeting under the same roof, and that opportunities for consummation might be utilised without going through the formal religious ceremony. There is considerable force in this view. But I am not on that account disposed to reject the idea of penalising consummation below a certain age say 15 or 16. In spite of considerable evasion the legislation may have a deterrent and educative effect provided care is taken to obviate the possibility of blackmailing by suitable provisions in regard to the initiation of prosecution and the trial of offences. As pointed out by me above, the early entrance upon conjugal relations need not be followed by child-bearing. Modern science has rendered it quite feasible to avoid premature maternity. The true remedy is to be sought not so much in legislation as in the education of public opinion and the popularisation of the requisite knowledge—a course which is urgently demanded in the case of grown-up people, at least as much as in the case of the young.

Turning to the provisions of the bill as amended by the select committee, I am in favour of the proposal to fix a minimum limit of age of marriage for males at 18 years. I am also in favour of the punishment proposed for a male above 21 years of age contracting a child-marriage.

One serious defect in the proposed legislation is its failure to provide against the marriage of young girls to men of middle age and over. Any male of the age of 40 or upwards who marries a girl who has not attained the age of majority should be liable to be punished with rigorous imprisonment for a term of six months.

**Written Statement, dated the 10th March 1929, of Mr. A. MOHY-DEEN, Professor of Economics, Nizam College, Hyderabad, Deccan.**

The figures in the accompanying table (A) are the figures of the Muslim Marriages in the Hyderabad State.

1. They are collected from the Ecclesiastical Office (Sadruddin) of the Government of H. E. H. the Nizam of Hyderabad. It may be mentioned that in the Dominions the Office of "Kazi" is a hereditary post and that the Kazis have their jurisdiction over defined areas. The division of their jurisdiction does not correspond with the present Administrative units. But there is no area in the Dominions inhabited by Muslims which does not come under the jurisdiction of one Kazi or the other.

Unfortunately, there is no such organisation for the registration of Hindu marriages and their figures are not available.

2. Though any person may perform the actual ceremony of marriage, the presence of the Kazi or his representative at the ceremony is essential. He enters the details of both the parties on a form which has been prescribed by the Government. The form is signed by the Kazi, the witness and the vakil. This registration of marriage with the Kazi is necessary because no legal proceedings in respect of divorce or mehar can be instituted by either party against the other without such registration.

3. The Kazi makes enquiries about the age of the bride and the bridegroom from their parents or guardians. As the system of birth-certificate is not in force, the age of both the parties is, at best, only an approximation.

4. The figures collected are from 1st January 1913, to the end of 1922.



Table (A) Number of Muslim Brides and Bridegrooms of all age—Figures in the period 1913-1922.

	1912.		1914.		1915.		1916.		1917.		1918.		1919.		1920.		1921.		1922.	
	Bride.	Bridegroom.	Bride.	Bridegroom.	Bride.	Bridegroom.	Bride.	Bridegroom.	Bride.	Bridegroom.	Bride.	Bridegroom.	Bride.	Bridegroom.	Bride.	Bridegroom.	Bride.	Bridegroom.	Bride.	Bridegroom.
0-5	27	..	54	..	40	1	20	1	25	1	10	1	22	1	29	..	3	..	6	..
5-10	543	22	899	65	777	32	657	35	532	12	290	12	463	31	584	34	358	8	436	24
10-15	3,506	233	4,004	382	3,833	336	3,683	270	3,387	139	3,057	139	4,092	246	4,264	298	3,208	152	3,725	210
15-20	1,955	911	1,893	1,210	1,719	1,178	1,275	1,033	1,565	670	2,372	792	2,068	931	1,848	782	1,726	670	1,726	778
20-25	469	2,483	420	2,711	489	2,572	550	2,411	503	1,951	541	1,951	966	2,262	773	2,501	695	2,000	703	2,356
25-30	196	1,583	234	1,699	214	1,495	239	1,662	283	1,452	306	1,452	531	2,217	407	2,102	417	1,654	344	1,662
30-35	102	702	106	276	99	718	122	730	136	783	141	783	204	1,359	176	1,131	176	917	131	943
35-40	31	373	32	375	23	372	26	398	37	480	39	480	53	796	37	623	44	207	37	537
40-45	12	252	25	293	16	246	15	258	28	315	23	315	30	516	26	405	29	371	26	306
45-50	4	126	4	133	6	120	3	114	4	132	6	132	3	243	4	168	4	170	8	156
50-55	1	105	..	87	1	87	..	85	3	113	..	113	1	174	..	136	3	119	1	102
55-60	..	24	..	15	..	21	1	25	..	37	..	37	..	53	1	31	..	26	..	29
60-65	2	27	..	28	1	23	..	25	..	26	..	27	..	31	..	24	1	38	1	23
65-70	..	..	..	9	..	6	..	..	..	6	..	6	..	5	..	6	..	5	..	6
70-75	..	3	..	5	..	4	..	3	..	3	..	3	..	9	..	2	..	5	..	6
75-80	..	3	2	3	..	..	..	1	..	..	..	..	..	1	..	1	..	1	..	2
80-85	1	..	..	..	..	1	..	..	..	..	..	..	..	2	..	1	..	1	..	..
TOTAL	..	6,848	..	7,637	..	7,212	..	7,051	..	6,508	..	6,120	..	6,736	..	6,389	..	6,896	..	7,144

6. The total Muslim population of the Hyderabad State on the census day in 1921, was 1,298,277.

In the year 1913, 59.5 per cent. of the total marriages in the Dominions were the marriages of brides below the age of 15. Following table exhibits the percentage of brides 0-15, for the whole period.

Table No. 1.

—	1913.	1914.	1915.	1916.	1917.	1918.	1919.	1920.	1921.	1922.
0-15 . . . . .	59	64	64	61	60	54	52	53	53	58

The slight downward trend of the percentage of brides below 15 is a hopeful sign of the consciousness on the part of the parents of the great evils of early marriage. But, unfortunately, the progress is very slow.

*Marriages: Brides below 5.*

The total number of girls married below the age of 5, in the whole period, 1913-22, is 245—an average of 24.5 a year. The figures show great ups and downs in different years. A reference to the mehar (the amount of money which the bridegroom pays or promises to pay to the bride) shows that about 93 per cent. of these marriages have a mehar of only Rs. 200 or below it; 80 per cent., Rs. 1,000, or below it. Mehars indicate the class of the brides and bridegrooms. Broadly speaking we may expect high mehars in wealthy families and low mehars in poor families. Of the 245 marriages there are only two in which the mehars is Rs. 62,000, and Rs. 32,000 respectively. Not more than 10 mehars run into thousands. Thus it is obvious that the child marriage below the age of 5 is largely an affair of the poor and therefore of uneducated class in the Hyderabad States.

*Brides from 5 to 10.*

7. The percentage of brides from 5 to 10 years to the total marriages of the Muslims in the Dominions are:—

1913.	1914.	1915.	1916.	1917.	1918.	1919.	1920.	1921.	1922.
7.9	11.7	10.6	9.3	8.1	4.5	5.2	6.9	5.2	6.1

The marriage of girls from 5 to 10 during the period under discussion shows a tendency to fall.

*Brides from 10 to 15.*

8. The following is the most important table which shows the number and percentage of brides of the group 10-15 for the whole of the Dominions.

Table No. 2.—Showing Number and Per cent. of Brides 10 to 15.

—	1913.	1914.	1915.	1916.	1917.	1918.	1919.	1920.	1921.	1922.
No.—										
10 . . . . .	330	487	466	438	490	308	433	532	319	440
11 . . . . .	755	908	947	772	727	674	937	1,059	745	800
12 . . . . .	797	908	874	889	756	703	974	1,033	849	903
13 . . . . .	115	159	122	135	127	113	144	134	114	102
14 . . . . .	1,509	1,542	1,424	1,449	1,287	1,259	1,554	1,506	1,241	1,390

	1913.	1914.	1915.	1916.	1917.	1918.	1919.	1920.	1921.	1922.
Per cent.—										
10 . . . . .	4.8	6.3	6.4	6.2	7.5	5.0	5.5	6.3	4.6	6.1
11 . . . . .	11.0	11.6	13.1	10.9	11.0	11.0	10.7	12.6	10.8	11.1
12 . . . . .	11.6	11.8	12.1	12.6	10.0	11.4	11.1	12.5	12.4	13.8
13 . . . . .	1.6	2.0	1.6	1.9	1.9	1.8	1.6	1.5	1.6	1.4
14 . . . . .	22.0	20.1	19.7	20.5	19.7	20.5	17.7	17.9	18.1	19.4

The figure 13 is regarded as of bad omen and consequently they are very few marriages at that age. The number of brides of 10 and 12 years of age shows a slight increase while that of 11 and 13 remains practically constant. The number at the age of 14, though most popular for brides, shows a slight tendency to fall.

Table No. 3.—Per cent. of Brides 0-10 and 10-15.

	1913.	1914.	1915.	1916.	1917.	1918.	1919.	1920.	1921.	1922.
0-10 . . . . .	8.3	12.4	11.2	9.7	8.5	4.7	5.5	7.3	5.2	6.1
10-15 . . . . .	51.1	52.2	53.1	52.2	52.0	49.9	46.8	51.0	47.8	52.1

A comparison of the marriages in the groups 0 to 10 and 10 to 15 (table No. 3) clearly shows that there has comparatively been a greater fall in the first group than in the second. The fall in the total group 0-15 as exhibited in the table No. 1 is more due to fall in lower ages than in the higher. Though this comparison does not detract from the value of the net decrease in the marriages of girls below 15, yet it does show the attitude of the mind of the people. They may abstain from marrying girls at very tender age of 9, or 10, or 11 but the majority think it necessary to marry them before they pass the age of 14. Propaganda and Education may ultimately open the eyes of the people to the evils of early marriage but that orientation of mind, I am afraid, will take a very long time to accomplish. If the health and physique of the nation is to be improved, the critical age group 10-15 must be protected by Law.

The almost superstitious belief of the people in the social necessity of marriage of girls at or below the age of 14 is still more clearly brought out by a closer study of the figures of marriages below 15 in the City and Suburbs of Hyderabad and in the rest of the Dominions.

Table No. 4.—Per cent. of Brides 0-15 in the "City and Suburbs" of Hyderabad and the rest of the Dominions.

	1913.	1914.	1915.	1916.	1917.	1918.	1919.	1920.	1921.	1922.
City and Suburbs . . . . .	44.2	48.4	49.6	47.4	44.6	41.9	38.4	41.0	41.2	42.6
Rest of the Dominions . . . . .	70.0	73.3	71.7	70.4	68.9	61.4	58.4	66.8	61.7	68.2

The table No. 4 exhibits a wide difference between the number of brides below the age of 15 in the two areas—the one predominantly urban area of the City and the Suburbs of Hyderabad and the other predominantly rural area of the rest of the Dominions.

In so far as the number of girls married below 15 in the City is less than the number of girls of the same age married in the Districts, there is a net gain to the society. The low figures in the City are no doubt due to wide literacy and other social influences commonly associated with urban

life, and they are, as far as they go, a strong testimony to what education can do in the way of Social reform. But the totals of the groups do not tell the whole story.

*Table No. 5.—Brides of 0-10 and of subsequent age in the City and Suburbs of Hyderabad.*

	1913.	1914.	1915.	1916.	1917.	1918.	1919.	1920.	1921.	1922.
<b>No.—</b>										
0-10 . . . . .	47	52	71	64	47	29	48	34	53	38
10 . . . . .	40	49	48	70	58	47	38	43	46	58
11 . . . . .	236	202	216	202	184	206	165	182	190	208
12 . . . . .	225	235	196	211	109	217	188	220	207	284
13 . . . . .	18	35	34	37	35	31	26	39	47	41
14 . . . . .	660	617	628	647	550	600	567	607	581	557
<b>Total No. of marriages (all groups) in the City and Suburbs.</b>	<b>2,790</b>	<b>2,450</b>	<b>2,405</b>	<b>2,593</b>	<b>2,224</b>	<b>2,513</b>	<b>2,660</b>	<b>2,754</b>	<b>2,895</b>	<b>2,779</b>
<b>Per cent.—</b>										
0-10 . . . . .	1.6	2.1	2.9	2.4	2.1	1.1	1.6	1.2	1.8	1.8
10 . . . . .	1.4	1.9	1.9	2.6	2.6	1.8	1.4	1.5	1.6	2.0
11 . . . . .	8.4	8.2	8.0	7.7	6.0	8.1	6.1	6.6	6.8	7.4
12 . . . . .	8.0	9.5	8.1	8.1	7.5	8.6	7.0	8.2	9.2	10.2
13 . . . . .	0.6	1.4	1.4	1.4	1.5	1.2	0.9	1.4	1.6	1.4
14 . . . . .	23.9	25.1	26.1	24.9	24.7	23.8	21.2	22.0	20.0	20.0

*Table No. 6.—Brides of 0-10 and of subsequent age in rest of the Dominions.*

	1913.	1914.	1915.	1916.	1917.	1918.	1919.	1920.	1921.	1922.
<b>No.—</b>										
0-10 . . . . .	523	901	740	623	510	261	442	579	307	404
10 . . . . .	290	438	418	368	432	26	445	489	273	282
11 . . . . .	519	706	781	570	593	408	772	877	546	592
12 . . . . .	572	673	678	678	587	486	786	827	582	709
13 . . . . .	97	124	88	98	92	82	118	95	67	61
14 . . . . .	840	925	796	802	737	659	987	899	660	833
<b>Total No. of marriages (all groups) in the Rest of the Dominions.</b>	<b>4,058</b>	<b>5,201</b>	<b>4,807</b>	<b>4,458</b>	<b>4,279</b>	<b>3,607</b>	<b>6,069</b>	<b>5,635</b>	<b>3,941</b>	<b>4,365</b>
<b>Per cent.—</b>										
0-10 . . . . .	12.8	17.3	15.3	13.9	11.9	7.2	7.2	10.2	7.7	9.2
10 . . . . .	7.1	8.4	8.6	8.2	10.0	7.2	7.3	8.6	6.9	8.7
11 . . . . .	12.7	13.5	15.2	12.7	13.8	12.9	12.7	15.5	13.8	13.5
12 . . . . .	14.0	12.9	14.1	15.2	13.7	13.4	12.9	14.6	14.7	16.2
13 . . . . .	2.3	2.3	1.8	2.1	2.1	2.2	1.9	1.6	1.7	1.3
14 . . . . .	20.6	17.9	16.5	17.9	17.2	18.2	16.2	15.9	16.7	18.0

The tables Nos. 5 and 6 give the details of each age-figure. The City and the Suburbs of Hyderabad again exhibit very low percentages of marriage at all-age-figures except 14. While in the Districts, a large number of girls are married at earlier age-figures, there are only a few left to marry at 14, and, therefore, the percentage of the brides of 14 varies between 15 and 20. But the City, on the other hand, while showing small figures at low age-figures, exhibits a very high percentage of marriage at the age of 14. This high percentage of brides of 14 deprives the society of all the benefit that was conferred upon it by small percentages of marriage at earlier age-figures. The City takes away by one hand what it gives by the other. The reason for this is obvious. The marriages at early age-figures, viz., 0-10; 10, 11, or 12 are only formal ceremonies of alliance. In all these cases the actual consummation of marriage does not take place until the girl has reached the age of puberty. Therefore, in so far as the actual consummation of marriage is concerned, perhaps the majority of the girls married below 13 or 14 stand in the same position as the girls married at 14. In the light of this consideration, of what value is the small number of brides of low age-figures in the City? It is, I think, only a hollow virtue. If small percentages at low age-figures had been combined with small percentage at 14 some solid social good would have been achieved, but unfortunately, it is not so, and, it shows the mental attitude of the people towards marriage of girls. The people of the Suburbs and the City of Hyderabad, in spite of their Education and advancement, look upon 14 as the most proper age for marriage of the girls and unless they are prevented by Law, they are not likely to let that year pass without making necessary matrimonial alliance for their daughters.

Moreover, the marriage-position of the City has been inherited from the period before 1913. The percentages of the group 0-10, and of the age 10, 12 and 13 are, practically constant over the whole period of ten years, and those of the age 11 and 14 show a very slight tendency to fall. From the observation of these figures one might hazard a guess that the Muslim Community in the City of Hyderabad is, on the whole, stagnant in their Social conditions. They have reached a minimum in respect of age-figures for marriage beyond which they would not go.

The Districts on the other hand show a marked progress in reducing the number of brides of the groups 0-10, and as regards other age-figures, we may only hope that their fitful behaviour would, ultimately, lead to definite improvement.

Table No. 7.—Percentage of Brides 15 to 20 and of the age of 15.

---	1913.	1914.	1915.	1916.	1917.	1918.	1919.	1920.	1921.	1922.
Dominions—										
15-20 . . . . .	28.5	24.3	23.8	24.4	24.0	26.0	27.1	24.6	27.0	24.1
Brides at 15—										
City and Suburbs . . . . .	15.0	12.9	12.6	11.7	10.7	12.3	13.1	11.4	11.7	10.7
Brides at 15—										
Rest of the Dominions . . . . .	11.7	10.5	11.4	11.6	9.9	12.5	11.8	11.2	11.8	11.4

10. I need not go into great details of the age of bridegrooms. I propose to give below a few necessary tables with running comment upon them. The number of bridegrooms below 15 is small. The following table shows the percentage.

Table No. 8.—Per cent. of Bridegrooms 0-15.

	1913.	1914.	1915.	1916.	1917.	1918.	1919.	1920.	1921.	1922.
0-15 . . . . .	3.7	5.8	5.1	4.3	4.8	2.4	3.1	3.8	2.3	3.2

Table No. 9.—Number and per cent. of the Bridegroom 15-20.

	1913.	1914.	1915.	1916.	1917.	1918.	1919.	1920.	1921.	1922.
<b>Dominions—</b>										
Number . . . . .	911	1,210	1,178	1,033	891	670	792	931	762	778
Per cent. . . . .	13.3	15.7	16.3	14.6	15.7	10.9	9.0	11.0	11.1	10.8
<b>City and Suburbs of Hyderabad—</b>										
Number . . . . .	203	229	271	257	193	201	143	166	236	173
Per cent. . . . .	7.2	9.3	11.2	9.9	8.6	7.9	5.3	6.0	8.1	6.2
<b>Rest of the Dominions—</b>										
Number . . . . .	708	981	907	776	698	469	649	765	526	605
Per cent. . . . .	17.4	18.8	18.8	17.4	16.3	13.0	10.0	13.5	13.3	13.8

The Table No. 9 gives the number and percentage of the bridegrooms of the group of 15 to 20. The figures for the whole Dominions show a marked tendency to fall. But it may be observed that again it is the predominantly rural area that takes the lead. Though, as expected, the percentage of the bridegrooms of 15-20 in the City and Suburbs of Hyderabad is smaller than in the Districts but it is, more or less, stationery; while the number of the bridegrooms of the same group in the Districts show a decrease from 18.8 per cent. in 1914 to 13.8 in 1922 and that lower figure does not seem to be freak but a solid achievement of permanent value.

The most popular age for bridegrooms, however, is 25. The numbers of bridegrooms of different age-groups are given in table A. They hardly need any comment.

**Written Statement, dated the 8th August 1923, of Rai Bahadur R. SWAMINATHA VIJAYA THEVAR, Avl., Zemindar of Papanad, Tanjore.**

I am of opinion that the law as it stands at present will serve the purpose very well. I would certainly advocate the policy of post-puberty marriages but at the same time I should think that it is not necessary to enforce the policy by means of legislation as such a step may complicate matters in certain cases and affect the religious sentiments of the public and prove hard. The existing enactments are many and their applications are not efficient at present. Therefore for the present no more legislation is necessary on the lines as proposed now.

**Written Statement, dated the 8th August 1928, of M. R. Ry. P. N. A. Md. IBRAHIM ROWTHER Sahib Bahadur, Chairman, Municipal Council, Virudhunagar.**

1. Yes. The law is ineffective. The age of consent Clause of the Penal Code is a dead letter. Mr. Sarda's Bill, as it has emerged from the Select Committee, will be a necessary adjunct to the law as to the age of consent to make it more effective.

2. I can only advocate the making an advance on the present Law so as to coincide with the provisions of Mr. Sarda's Bill, if this is made into Law. In the absence of Mr. Sarda's Bill, any alteration in the Law as to the age of consent as contained in Sections 375 and 376 of the Indian Penal Code will not improve matters. Mr. Sarda's Bill is in this respect a suitable measure and also, in my opinion, a necessary legislation to prevent the evils arising out of early marriage.

3. Not very frequent. The amended Law made in 1925 has not succeeded either in preventing or reducing cases of rape. All cases of rape, as defined in the Law, are not reported and the offenders brought to book. Rare cases only when there is enmity of committed with consent but without the knowledge of the parents are sometimes reported. Even then, those cases when taken to a Court of Law fail in prosecution, because the girls are unwilling to the prosecution.

4. No. I think, Mr. Sarda's Bill, if passed into Law, will certainly serve as a corollary to the Law as to the age of consent to make it more effective.

5. The usual age at which girls attain puberty in this part of the country is 12. This does not differ very much in different classes, communities or societies.

6. Not common.

7. There is no religious injunction to the consummation of marriage\* after puberty; but, if it takes place before puberty, there is social boycott.

8. Garbhadan ceremony is generally performed in this part of the country. It coincides with the consummation of marriage, which usually follows the attainment of puberty. It is performed within a month after the attainment of puberty among Non-Brahmins and in the course of a year among Brahmins.

9. No. I do not consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. At the age of 14 and one year after puberty, it may be considered enough.

10. At the age of 14.

11. I have seen cases prejudicially affecting the progeny, but I have not got details.

12. Yes. I do.

13. No. But, it is due to the Law being ineffective.

14. No. The women have realised the evils arising from early consummation of marriage, and they are strongly against it.

15. As I said in my reply to Query No. 1, the Law is ineffective, and all cases of sexual intercourse with any girl under 14 years with or without her consent are not detected and penalised. Of course, in several cases, they are due to the difficulties experienced in determining the age of girls in connection with offences.

16. No. It won't materially minimise or reduce the difficulty.

17. Yes. Rigorous imprisonment which may extend to 10 years or fine which may extend to Rs. 1,000, or both in the case of extra-marital offences, and rigorous imprisonment which may extend to 2 years or fine which may extend to Rs. 1,000, or both in the case of marital offences, will act as effective deterrent, provided Mr. Sarda's Bill is made a necessary adjunct.

18. No. I do not make any difference in the procedure.

19. With the passing of Mr. Sarda's Bill, I think that no other safe-

guards beyond those existing at present are necessary, and we may wait to see the measure of success that Mr. Sarda's Bill achieves.

20. No. A legislation fixing the minimum age of marriage is likely to be more effective than a penal legislation fixing higher age of consent.

21. To secure the object in view, I rely on Penal Law also conjointly with social reform by means of Education and Social Propaganda.

**Written Statement of Mrs. GOMATHINATHAN, Honorary Secretary,  
Women's Indian Association, Veeraraghavapuram, Tinnevely,  
South India.**

I have consulted the wishes of the members of our association and they all feel that the existing law is not sufficient to prevent rape with young girls. Ordinarily men are tempted to force girls only at a time when they are just beginning to develop. It is rare that people are attracted by children. To protect girls just at the proper time, it is necessary to raise the age of consent.

2. If any useful purpose is to be served by the Age of Consent Bill an advancement has to be made on the present law. Consent must mean consent reached with due care and caution. It is hardly possible to expect girls of 13 or 14 to exercise due care and caution in a matter like this.

3. In this part of the country crimes of seduction and rape are frequent. When girls are victims of such crimes, they are usually between 12 and 16; outside this limit cases are of uncommon occurrence. So far as cases that actually come into court are concerned I have no such experience, but my husband who is a practising lawyer tells me that the amendment of the law made in 1925 has done some good but he adds that unless the age is raised to 14 in marital and 16 in extra-marital status, there can be no appreciable reduction in the commission of the crimes.

4. I am of opinion that the amendment has stimulated public opinion in the desired direction and consummation of marriage is often postponed as a result of the amendment, but this has no effect as on the celebration of the marriages which are not put off in obedience to law. So far as the putting off of the marriage is concerned, I do not think that any reform can be effected unless child marriage is made punishable.

5. The usual age at which girls attain puberty in this part of the country is between 14 and 15 and this may be taken to be the same in all communities and classes of people.

6. I do not think that cohabitation before puberty is common in this country although there are stray cases here and there. But it is a common occurrence soon after puberty. In marital status men very often cohabit with girls without giving time for development, in few cases there is cohabitation with girls even before they complete 13.

7. I am told that marriage among the Hindus is considered as a religious sacrament. If this view is to have its logical conclusion, it should follow that early consummation is a religious injunction. But I do not know of any authority on the point. Nobody can claim that there is religious injunction for consummation before puberty. If the marriage is viewed as a social agreement, nobody can think about religious injunction apart from social laws.

8. Gaona ceremony is performed in this part of the country and it is a very curious institution. Usually it is done along with the marriage and anterior to the consummation of the marriage and before puberty. There is no relation between Gaona and puberty. Little boys and little girls are made to lie on the same bed on the date of the marriage and it is considered more as a *tamasha* than as anything like ceremony. But this unfortunate thing has sometime led to rude cohabitation.



9. I do not consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. There must at least be an interval of two years between puberty and consummation, when alone the girl can be considered to be fit for consummation without injury to her health and that of her progeny.

10. A girl in India can give consent to cohabitation with a due realisation of the consequences only after 16, till when, she cannot be said to have attained maturity of understanding in these matters.

11. I have come across with a case of cohabitation before puberty when the girl was about 10 years of age; the girl sustained severe injuries in her genital organs. Recently a relation of mine was consummated at her 14th year, this was of course after puberty. She got conceived but her delivery was attended with great labour and when the child was removed by the application of instruments, it was found dead within a few minutes after her birth.

12. I do consider that early consummation and early maternity is greatly responsible for high maternal and infantile mortality. The case mentioned in paragraph 11 is an instance. It also seriously affects the physical developments of the people that are born of child parents. Intellectual developments greatly depends on physical conditions. Therefore early consummation retards the progress of the nation.

13. There is a general development of public opinion here to raise the age of consent to 14 in the marital and 16 in extra-marital cases. We have often discussed this question among our members and it can fairly be said that the public is in favour of raising the age of consent as indicated above.

14. Women in general do not favour the early consummation of their children, although there may be some stupid mothers here and there whose only ambition in life is to see their sons-in-law in the company of their daughters. The average women wishes to allow some time before development after puberty.

15. I have heard that some difficulties are experienced in determining the age of the girls in connection with offences under Sections 375 and 376, Indian Penal Code. In case where there are no birth registers, at least the opinion of two medical witnesses should be ascertained before fixing the age. The opinion of a single doctor often leads to errors, as opinion of doctors with regard to fixing of age often differs.

16. The difficulty may be minimised by raising the age of consent. Even laymen cannot commit mistakes in the case of developed girls. The error is likely to be committed more often in case of children than in case of grown up girls, the greater the age, the less is the margin of error.

17. I should separate extra-marital and marital offences into separate offences. Marriage status has got some privileges which should be respected and failures and mistakes in such cases should be treated with mercy. The maximum punishment I would propose for marital cases is simple imprisonment for one year; in other cases the punishment must be very severe and a maximum punishment of 10 years' rigorous imprisonment may be fixed.

18. There must also be a difference in procedure of trials of the two offences. Both should be made cognizable by the Police, for otherwise crimes in marital status can hardly come into court. Marital cases should be made triable by the District Magistrates only, other cases being triable by the Sessions Judge.

19. If the offence is made cognizable by the Police, it would afford a safeguard against collusion to protect the offender which often occurs in marital cases. As pointed out in the 18th paragraph, if the offence is to be tried by the District Magistrate only, there will be no room for vexatious prosecution. To prevent extortion investigation should not be entrusted to Police officers of inferior service.

20. Penal legislation fixing a high age of consent in marital cases will be more effective, and this is in consonance with public opinion in this part of the country. There are a large number of people who think that

fixing the minimum age for marriage will be interfering with their religious beliefs although there is no foundation for this.

21. Considering the present state of the Society, I am of opinion that the strengthening of penal law will be more effective in securing the object in view, but reform by means of education and social propaganda can by no means be disregarded. This must be carried on side by side with penal legislation. This has been so in every case of social reform, for example the abolition of sati.

**Written Statement, dated the 10th August 1928, of Shreemati KAMALABAI LAKSHMANA RAU, First Class Bench Magistrate, Tinnevely, South India.**

1. Yes. There is dissatisfaction amongst most thinking men and women as to the law of age of consent; particularly with reference to the Section 375 of the Indian Penal Code.

2. In the fifth paragraph of the above section the age-limit is not sufficient for "consent" as such. Twelve is the age of a playing child—of a happy girlhood.

3. Not much. I should think it is too early to expect satisfactory results of any legislation in the course of 2 or 3 years in this vast country. The Magistrates of the Bench should have such powers, as would enable them to take immediate and drastic steps for the punishment of such offences.

4. The knowledge of such an amendment of 1925 has not reached the masses at all. By propaganda work one could better the conditions possibly; but that must mean time and money. As an immediate step, however, one could use the benefit of such a legislation as the Child Marriage Bill. But even then it is not sufficient to protect the unmarried girl who is often helpless.

5. In the southern part of the country girls usually attain puberty in their fourteenth year. Of course there are exceptions to this general rule, and the age does go down to 13 or up even to 16 in many cases.

Yes. It differs. Among the labouring classes usually girls attain puberty in their 16th or 18th year; whilst in the case of some of the higher castes and frequently, in the case of well-to-do classes the age varies from 14 to 16.

6. (1) No.

(2) Very frequently.

(3) Very occasionally.

7. As far as I know religion does not sanction the early consummation of marriage before puberty. There is no religious penalty prescribed as such in the case of marriage; nor is it in force, if there is any such penalty, in any part of the country to-day.

8. Yes. The Garbhadan ceremony is performed on the 16th day the girl attains puberty, or within a year in many cases.

9. I do not consider the attainment of puberty the indication of the physical or bodily maturity. It is not at all justifiable for consummation of marriage at this stage. One could at once find out if a girl is fully grown up or otherwise in the exact sense of the word (even in spite of her attaining puberty) without the help of the doctor or a specialist.

10. Girls are girls in every country; and India is no exception to it. Although the girls find it difficult to give an intelligent consent realising the consequences thereof, I am sure they are intelligent enough at that period to understand the effects of such a consent.

11. In my experience of life—and it is a long one—if I might be permitted to say—I have heard and seen many cases of consummation before puberty which have resulted in injury to the body and health and in some cases, death. I append herewith a statement which will illustrate my explanation.

No.	District.	Village.	Caste.	Person.	Age.	Result.
1	Tinnevely . . .	Nalaudrala .	Brahman .	G—	18	Death.
2	Do. . . .	Veeraraghava- puram.	Do. .	R—	14	Injury.
3	Do. . . .	Nalaudrala .	Do. .	T—	13	Death.
4	Benares . . .	Benares City	Do. .	B—	12	Death.

In the above instances all the victims were *Brahmin girls*. In the first case above referred to, consummation took place *before puberty*, which resulted in serious injuries to the person of the girl and the result was death under harrowing circumstances; and it took place quite recently. In the second case the girl was married to a middle aged man, a widower; the consummation took place *before puberty*. The girl was forced to live with the aged man, but she ran away to her mother, directly, mortally afraid of the man and his overtures and in great nervous fear. Two years later, when she attained puberty, she was sent back to her husband again and now she lives with the old man. In the third case consummation took place in the 13th year; the parents confess they have to do it on account of their poverty and inability to provide for the poor little girl any longer. Result was protracted suffering and death. In the last case mentioned, a middle-aged Brahmin of Benares was married to a girl of 12 and she bore him a child in her 13th year. Result was death—both the girl and the baby as well.

12. Yes.

13. *Vide* answer to question 4.

14. No. They do not favour, but are driven to it by force of circumstances and invariably they appear to me to be the victims of an ordered social tyranny.

15. *Vide* answer to question 3.

16. I should think so.

17. I think judicial men and thinking lawyers must.

20. I have attempted an answer to this in the 4th question.

21. I should prefer to rely on the strengthening of the penal law to secure the object in view and as well as to insist upon educative bodies, social institutions, and conferences, the need of educative propaganda. Legislation and education of the people must go hand in hand. Witness the result of legislation alone. *re* the Act XV of 1856—*re* the marriage of Hindu widows. Seventy-two years have passed since then and I cannot say that there is yet a definite public opinion in favour of the said legislation, and to many purposes the act remains a dead letter. Very much depends upon educative propaganda and I should say there is, in the words of the late Justice Ranādè, when he argued in favour of state legislation in social reform, "The advantage to be gained by a change in the law of status, to the law of contract, from the restraints of the law of family and caste customs, to the self imposed restraints of the free will of the individual." And that is no small gain.

### Supplementary Statement of Mrs. KAMALA BAI R. L. RAO, Honorary Magistrate, Tinnevely.

I have been born and brought up in an orthodox Brahmin family, and I am proud of it. I love the treasures contained in our ancient Vedas, shastras,

Upanishads, and Puranas, and have a great respect and reverence for them. I bow to the authors of those literatures, the Bramahcharis and Brahmacharins of the past.

But I must confess I am not orthodox in the sense prevailing now in our land. I believe orthodoxy means strictly obeying and sticking to the ancient laws prescribed by those shastras. The ancient law-givers, the authors of those shastras, susritis and smritis, were far-sighted enough and conscious about the changing times and conflicting elements of the nature. I am sure our shastras permit us to act as we deem fit in extraordinary circumstances.

In my opinion now we are in a state as to use that liberty described as 'Apad Dharma' in the shastras. Because I find at present our country is in danger in every respect—politically, socially, economically, etc. We have lost our political liberty, we have lost our hold on society, we are poverty-stricken, we are physically unfit for anything. The masses are not in a condition to perform their duties and responsibilities described by those shastras. Under the present circumstances we orthodox people want to adhere to our shastras because we think it is the well prescribed law in the world for the masses and we hope it will be the guiding light in the world in the future also if properly used.

I have faith in my countrymen past as well as the present. The learned sons and daughters of the soil who have their country's welfare in their minds have a right to make laws for their country's progress, with the help of their own brethren; for who else will be the helper to the weak and poor?

Some my so-called orthodox brothers have stated before the committee some inconsistent and unfounded views; I want to have a say with regard to the objectionable portion in the statement. Mr. T. R. Rama Chandra Iyer has stated that he has no faith in the medical point of view given before the Age of Consent committee. But I invite your attention to the fact, that he sends for doctors and midwives to his house, when needed. Has he no faith in the Doctors? If he has no faith in the medical point of view about a poor fourteen years girl, surely he has no right to call a doctor in need.

My esteemed brother Mr. Justice Ramesam says "There was every chance of girls and boys of thirteen and seventeen or eighteen years misbehaving if there was no marriage". I strongly disapprove of it. There is no apprehension of girls going wrong if marriage is put off, if they are allowed to move in good social atmosphere. If by raising the Age of Consent by two years, the girls and boys will go astray, there is every possibility of their going wrong even in the age of fourteen and in a married condition. Diet, poverty, environment are the factors that must be taken into consideration. If there is a necessity for legislation for girls to keep up their morality there is also equally a necessity for boys also. And after all morality in both sexes cannot be kept up by law for a long time.

I have moved among the labouring low classes more frequently and closely than Mr. Ramesam has done. I have lost no opportunity in studying their condition and as member of the weaker sex I have every reason to believe that the fear of Mr. Ramesam is wholly unfounded and groundless.

So I think there is no harm arising out of this Bill to any section of the community, let them be orthodox or heterodox. On the other hand there is positive good in enacting the law. Early pregnancy, responsibility of looking after her children at such an early age and too much domestic work, all these combine together to spoil the health of the girls. Early consummation certainly affects the physical, economical and the intellectual

progress of the people and consequently progress of the country as a whole. As a result of early consummation the pleasures of youth is denied to both the sexes. They are burdened with heavy responsibilities—this is against nature. Education is hampered very much by early marriage and consummation you all know. Considering all these above-said evils, I welcome the change for the better and I support the Bill wholeheartedly.

**Written Statement, dated the 10th August 1928, of Mrs. L. EKAMBARAM, Municipal Councillor, Honorary Secretary and Treasurer, Tuticorin Ladies' Association, Tuticorin.**

1. I certainly do think that there is considerable dissatisfaction with the state of the law as to the age of consent as it at present exists.

2. The circumstances which in my opinion justify making an advance on the present law are:—

The evils sought to be remedied by the law at present have remained the same and there have been no signs of abatement.

3. I cannot say such crimes of seduction or rape are frequent in my part of the country and from any statistics before me I cannot say that the amendment of the law made in 1925 raising the age of consent to 14 years has succeeded in preventing or reducing cases of rape outside the marital state, or the improper seduction of girls for immoral purposes. But from local reports and information the amendment of the law made in 1925 has not succeeded to any extent. I cannot propose any measures but the evil must be overcome by a diffusion of knowledge and growth of public opinion thereon.

4. The amendment of 1925 has not at all been effective, I am quite definite. I would propose penalising such marriages even before consummation.

5. Girls attain puberty in this part of the country at the age of 13. But I think the age is even lower in the Brahmin community very often. The age at which girls of non-vegetarian communities attain puberty is slightly higher.

6. I think cohabitation is common in this part of the country but whether it is common before puberty, or soon after puberty or before the girl completes 13 years, I am afraid, I cannot say.

7. The practice of the early consummation of marriage before or at puberty is sometimes attributed to religious injunctions but I am informed definitely that there is no such injunction.

8. I cannot speak about this matter.

9. I do not consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. I think the age must be between 16 and 17 when a girl's physical development can be considered to be enough to justify such consummation without injury to her own health and that of her progeny.

10. The age would ordinarily be between 15 and 16.

11. I think this is a point for members of the medical profession to give an opinion on.

12. I do consider early consummation and early maternity is responsible for high maternal and infantile mortality, etc., and as Secretary of the Tuticorin Ladies Association I am running a "Baby Home" and I see much evidence in support of this statement.

13. Yes. There has been, but it is entirely confined to the educated classes.

14. No. Educated women do not.

15. This is for members of the medical profession to say.

16. I should think so.

17—19. This is a point for the members of the legal profession.

20. I do not consider that penal legislation fixing a higher age of consent for marital cases is likely to be more effective than legislation fixing the minimum age of marriage. I consider the latter course would be more in consonance with public opinion in my part of the country.

21. I would prefer to rely on the strengthening of the penal law to secure the object in view and not on the progress of social reform by means of education and social propaganda for in spite of the social reform movement and the spreading of education there has been no progress at all in this direction for now over 30 or 40 years.

**Written Statement, dated the 11th August 1928, of Mr. A. NAR-SIMHACHARI, Secretary, Tanjore Bar Association, Tanjore.**

1. There is no dissatisfaction with the state of the law as to the age of consent as contained in sections 375 and 376 of the Indian Penal Code.

2. There are no circumstances justifying interference by legislation. Public opinion is itself tending towards progressive social reform. If there should be legislation: an advance in the present law is desired by substituting 16 in the 5th clause and 14 years in the exception in section 375 of the Penal Code.

3. Crimes of seduction and rape are very rare in our part of the country and as such nothing can be said about the effect or the amendment of the law in 1925.

4. (1) The amendment of 1925 has not produced any visible effect on its own account. But owing to the progressive thought of the modern public, consummation of marriage is being generally postponed.

(2) Public opinion no doubt has been stimulated to a certain extent.

(3) Marriage has not been put off beyond 13 as a result of the amendment.

No legislative measure is necessary as public opinion is gradually tending towards postponement or consummation to a mature age if not putting off the marriage itself.

5. Girls attain puberty in this part of the country between 13 and 14 years of age usually. Age of puberty differs in different castes.

6. (1) Cohabitation before puberty is not known at all in this part of the country.

(2) Cohabitation soon after puberty is not common but may occur in rare cases.

(3) Cohabitation before the girl completes 13 years is not common.

We are not aware of any of these cases coming to court.

7. Early consummation of marriage is not due to any religious injunction.

8. "Garbhadan" ceremony is usually performed. It is the ceremony of consummation; performed only after the attainment of puberty, not less than 6 months after puberty and generally after one year.

9. The attainment of puberty is not a sufficient indication of physical maturity to justify consummation. Ordinarily one year after puberty, the girl's physical development may be considered enough to justify consummation.

10. At 14 she can give her consent.

11. Cohabitation soon after puberty has resulted in some cases in injury to the girl's health as well as weak progeny.

12. Early maternity was to a certain extent responsible for infant mortality and the physical degeneration of public health.

But matters are improving now.

13. There has been development of public opinion in favour of delay of consummation for its own intrinsic merits without reference to any legislation.

14. Our women are sufficiently advanced and disfavour early consummation of marriages.

15. There have been no cases in which difficulty has been experienced.

16. No.

17. Division must be made. Marital offences must be punished only with fine not exceeding Rs. 200. Marital cases must be summons cases while extra-marital cases must be warrant cases.

18. In marital cases complaint must always come from persons in *loco parentis*. In extra-marital cases, the complaint must come from the husband.

20. Fixing the minimum age of marriage will be effective. But fixing a higher age of consent will be in consonance with public opinion.

21. We would prefer progress by social reform attained by education and social propaganda to strengthening the Penal law for securing the object in view.

**Written Statement, dated the 10th August 1928, of Mr. K. C. SUBRAMANIAM, Bar-at-Law, Negapatam.**

1. There is some dissatisfaction with the state of the law as to the age of consent as contained in sections 375 and 376, Indian Penal Code.

2. It is necessary to make an advance in the present law. There is a tendency amongst criminals to commit rape on young girls who have not attained puberty and on girls just attained puberty. Married girls under 15 and unmarried girls under 16 will not be in a position to understand the consequences of giving their consent. As the marriageable age has to be raised to 15, the age of consent should be fixed at 15.

3. Crimes of seduction or rape are not frequent in this District. Some cases of rape have come before the Sessions Court. In these cases young Mahomedan girls of 9 to 13 were said to be raped by Mahomedans. Two or three cases where Hindu low class girls of 7 to 13 were said to be raped by Hindus of Padayachi and Korava caste. Rape is common only amongst the lower classes where the young girls are allowed to roam about and are caught in stray places like fields, tope and river banks. The amendment of the law made in 1925 has not succeeded in preventing or reducing cases of rape outside marital state. I am not in a position to give the statistics to make the law effective, I would suggest that the age of consent for married girls should be 15 and unmarried girls 16.

4. The amendment of 1925 raising the age of consent within marital state to 13 years has been largely effective in protecting married girls against cohabitation with husbands within the prescribed age-limit by postponing the consummation of marriage by stimulating public opinion by putting off marriage beyond 13. Amongst Brahmins and Vaisya, the marriageable age has of late shown a tendency to raise above 13. But most of the marriages are celebrated under 12 and 13. The amendment of this law has

not affected the non-Brahmins who constitute the largest percentage of the population in this presidency for more than a decade—the minimum marriageable age amongst non-Brahmins has been 15. The only way to make the law more effective would be to fix the minimum marriage age at 15.

5. The usual age at which girls attain puberty is (13 to 15). Yes, there is a difference in the age at which girls attain puberty amongst Brahmins and non-Brahmin girls. Brahmin girls attain puberty even before 13 and non-Brahmin girls attain puberty only after 13 and before 15. The reason of the Brahmin girls attaining puberty earlier is on account of their very early marriage.

6. Cohabitation before puberty is not common amongst any class in this District, but cohabitation soon after puberty is common amongst the Brahmins and Vaisas in this District. Cohabitation before the girl completes 13 years takes place only amongst the Brahmins if the girl attains age before 13.

7. There is no practice in this District of early consummation of marriage before puberty. Soon after puberty consummation amongst Brahmins, because of the religious injunction in *Manu Smriti* to the effect "that a man who does not cohabit with his wife after every menses or *ritu* is guilty of a crime called *Brunahat*, i.e., killing of the Fœtus".

8. Garbhadan coincides with consummation and it is performed only soon after the attainment of puberty amongst Brahmins and two or three years after puberty amongst non-Brahmins.

9. I do not consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. Medical men only are competent to express an opinion on this point. I consider that only two or three years after puberty girls' physical development takes place so as to justify consummation of marriage.

10. Fifteen years of age.

11. I consider that early consummation and early maternity are responsible for high maternal and infantile mortality. On account of early marriage and early consummation of marriage, the mothers are really child-wives and are not in a position to realise the responsibilities of a mother and consequently the infants are not taken proper care of by mothers who are practically child-wives. Such consummation affects the intellectual and physical progress of the people. The infant born of such early marriages are mere weaklings when compared with children born of marriages and consummation after 15 years of age.

12. There has been a development of public opinion in this District in favour of an extension of the age of consent in marital and extra-marital cases, since the amendment of the law in 1925, amongst non-Brahmins and some social reformers of the Brahmin community.

13. Men in this District are generally averse to early consummation of marriage for their children. Consummation of marriage during the hot months (२१ १५ + २५५) May, June, July and August are objected to by womenfolk.

14. Difficulties have often been experienced in determining the age of girls in connection with offences under sections 375 and 376 of the Indian Penal Code. The estimation of age by doctors is not quite satisfactory. In my opinion the estimation of age is only a guess work after 10 years. The principal means which enable doctors to form a fairly accurate opinion about the age of an individual are teeth, height, weight, and ossification of bones. I would suggest that extract from birth register will be a safe guide to the estimation of age.

15. The difficulty or margin of error in determining the age be materially reduced or minimised if the age of consent is raised to 14 years or above.

16. I would make a distinction between extra-marital and marital offences. In the case of marital offences, the punishment ought to be very slight and



the imposition of fine only, will meet the ends of justice. Severe punishment such as imprisonment will stand in the way of husband and wife living together after the offence is committed. But a sentence of fine only will not have the effect of separating husband and wife after the offence. As regards extra-marital offences, the punishment should be severe, as prescribed in section 376 of the Indian Penal Code.

17. The trial of offences within the marital state should be in camera

18. Legislation fixing the minimum age of marriage is likely to be more effective than penal legislation fixing a higher age of consent. The public opinion amongst non-Brahmins and advanced Brahmins will be in favour of legislation fixing the minimum age. Of course orthodox people will be protesting against any change in the law either by raising the age of consent or fixing the minimum marriageable age.

19. I would prefer to rely on the strength of the penal law to secure the object in view. Social reform by means of education and social propaganda has been going on for more than 50 years or so. It has not been possible to put a stop to early marriages in certain communities like Brahmins in spite of the wide spread education amongst them. Of course the orthodox Brahmins will raise a hue and cry that religion is in danger when any attempt is made to strengthen the Penal law. But our legislators should bear the brunt of criticism and should take steps to strengthen the penal law, so that the evils of early marriages and infantile and maternal mortality may be put an end to.

**Written Statement, dated the 7th August 1928, of Mr. R. APPASWAMI NAIDU, Palace, Ilayarasanendal, Kollipatty, Tinnevely District.**

1—2. I am not satisfied with sections 375 and 376, Indian Penal Code, as to the age of consent as they stand at present. The sections seek to differentiate the crime between the husband and another when sexual intercourse is committed with a girl of 13 years. The intercourse of the husband with a girl of 13 is not considered rape but considered an illicit intercourse; whereas the intercourse of another man is considered rape and meted with severe punishment. The intercourse of either an husband or a stranger with a girl of 13 with or without her consent is not only injurious to her health and body but it injuriously affects also her progeny. So both the kinds of intercourses are to be considered rape, only the punishment to the husband for the committal of rape should be somewhat lenient and the punishment to the stranger should be severe as found in the law.

In these days when there is a strong agitation throughout the length and breadth of India to root out early marriages, especially the early consummation of marriages and the consequent horrible maternal and infantile mortality, it is only an irony of fate to allow husbands by the help of law to have an intercourse with girls of 13 and allow them to escape scot-free without making them dearly pay for the consequence of procreating a weak, imbecile and idiotic race, which is considered a ban on India's freedom and a frustration of its brighter hopes. In order to have a progeny of healthy children, intellectually and physically fit, the "Age of Consent" should be raised to 16 or to 3 years after puberty in marital state, when girls will be generally fit to take to maternity and its consequences. But some with antediluvian notions, say that, when one attains puberty, it is a sure sign of full development of physical fitness for sexual intercourse and that animal passions are stirred in their bosoms, and that if such natural cravings are not satisfied through natural course (i.e., through sexual intercourses with their husbands) they will try to appease their cravings through illicit intercourses, thereby subjecting themselves to immorality from the beginning of their life. But I have already told you that these are antediluvian notions and cannot bear the scrutiny before the search-light of our observations and

experiences. The facts are otherwise. As far as my observation goes, the majority of the Non-Brahmin girls of 18, 19, 20 and even 21 remain unmarried, leading a pure and unblemished life till the consummation of their marriages. But there may be some stray cases here and there in every community in marital as well as outside marital state. Such cases are bound to exist so long as humanity exists and so long as human nature remains imperfect. We only pity such cases for not curbing their animal passions in their tender age, and we allow the strong arm of law to reach them. The cravings of such girls are in my opinion the consequences of the morbid state of their bodies but not natural.

3. Though the seduction of girls is frequent, the crime of rape is rare, in our part of the country. The cases of rape and seduction of girls are not reduced through the raising of the "Age of Consent" to 14. The cases of seduction and rape will not be revealed to the public either by girls or by their parents out of shame and also for the fear of losing their dignity and position. It is very rare, such cases are launched out in public courts, unless the girls belong to the very low caste. Even the majority of them will not reveal their degraded position out of shame. The punishment for cases proved, is already adequate and need not be enhanced.

4. How can the amendment of 1925 raising the "Age of Consent" within marital state to 13 years, be effective unless the V. M. of the village is armed with sufficient law, to see that the parents in the village do not perform the consummation of marriage of their daughters before 13. This mode of action can effectively stop such consummation of marriages; for the V. M. has a birth register in the village and can easily find out whether girls are 13 years old or not. Generally such cases take place only among Brahmins. They perform the consummation of marriages as soon as their girls attain puberty even if they attain at 11 or at 12. Such cases may come clearly under the crime of rape which are left undetected owing to the imperfection of law. To make the Law effective on this point, I would suggest that the parents of the girls or whoever perform the consummation of marriage are bound to take a certificate of approval from the V. M. of the village.

5. The usual age at which the girls attain puberty in our part of the country is 13. But this may differ with different girls. The girls who take rich nourishment and who lead a sedentary life attain their puberty at 13, 12 or even at 11. The girls who take ordinary food and do outdoor work by going to fields or manual labour near home, generally attain puberty at 13, 14 or even at 15. The last mentioned age in both the cases are rare.

6. The cohabitation before puberty or soon after puberty or before the girl completes 13 years, is prevalent only among Brahmins; and in no other caste it is prevalent. If it is prevalent among the Non-Brahmins it will be only rare, very rare and may be omitted out of consideration as infinitesimally small in number; but at any rate the cohabitation before puberty is not at all prevalent among the Non-Brahmins. Among the Brahmins, especially among Tamil Brahmins false puberty is created and consummation of marriage is performed. Only in rare cases it is done. Either the parents of the girls who are unable or find it difficult to maintain their daughters or the parents of the boys who find it difficult to perform their house-hold duties, devise this plan of false puberty thereby attaining their object, the one in getting rid of the daughter for fear of maintaining her and the other in bringing the daughter-in-law for the performance of the house-hold duties. Such horrible things do occur rarely and escape punishment. How can such cases come to Court if both the parties are willing agents.

8. "Gaona" or "Garbhadan" ceremony is usually performed in our part of the country. "Garbhadan" does coincide with the consummation of marriage; for "Garbhadan" itself means or otherwise called consummation of marriage. It is performed after the attainment of puberty. The Brahmins perform generally the consummation of marriage as soon as the attainment of puberty but in some cases they perform the ceremony even

before puberty creating false puberty as I have mentioned before. The Non-Brahmins perform the ceremony only after many years—say from 2 to 6 years after puberty.

9—10. I have already answered this question when I answered the questions 1 and 2.

11. I have heard through reliable authority and also have known from my own observation that in cases where co-habitations take place before puberty or soon after puberty, either the womb is permanently dislocated causing thereby sterility or brings on cancer of the womb by constant and forcible touching of the male organ in the tender portion of the womb or brings on abortion owing to the undevelopment state of the womb; but if one escapes, the one and all of these evil results, at least her child-birth will be attended with fatal results. Such cases do occur invariably among Brahmin classes who go in for early maternity.

12. I have answered this question when I answered the questions 11, 2 and 1.

13. In certain well-informed circles the opinion is that the "Age of Consent" is to be raised at least to 16 years for girls in marital as well as extra-marital state. This opinion is prevalent in all classes of people except in the orthodox section of the Brahmins; but even they would be satisfied to the extension of the "Age of Consent" only if their girls are allowed to marry before the attainment of puberty.

14. Women in all parts of the country wish for the early consummation of marriage for their children. The reason for this is, that they want to conduct some ceremonies or other and enjoy the festivities. They want to bring their daughters-in-law to their house soon for performing house-hold duties and also wish to hug their grand-children before they die, and perhaps may also wish to send them before them to prepare a home in Heaven.

15—16. In offences under sections 375 and 376, Indian Penal Code, if the trying Judge or the Jury or the Police experience any difficulty in finding out the age of the girls by their very appearances, the V. M. of the village can set it right by finding out the real age of the girl by referring the birth register of the village in which she was born. Even if the "Age of Consent" is raised to 14 or above, it will be really very difficult, in some cases, to find out the age. The best course would be to refer to the village Magistrate. Only he should be asked to maintain the birth registers very carefully. In this way, the difficulty of finding out the real ages of the girls can be overcome.

17—18. I would not consider the extra-marital and marital offences as different offences; but in meting out punishment under marital state, I would ask to show leniency towards a husband and reduce the punishment to 2 years and a fine; but I may ask to enhance the punishment in proportion to the lowering of the ages of the girls cohabited. But in extra-marital cases the punishment should be maximum as prescribed in the Law under section 376, Indian Penal Code. As to the mode of procedure under marital state I would concur with the procedure adopted in 376-A and the procedure for extra-marital cases should be same as that of the procedure adopted in 376, Indian Penal Code, under any other cases.

19. Not answered.

7, 20—21. The performance of the consummation of marriage before or at puberty is not enjoined by any of the Sastras. In "Tholkappiyam" the Tamil Grammar of the ancient Dravidians, it is clearly mentioned that the girls from 16 to 24 may begin to have sexual intercourses with the husbands. This clearly shows that the girls below 16 are not admitted for marriage and consequently to sexual intercourse. In "Parasara Smrithi" of the Aryans, though it is clearly stated that a "Kanya" not more than 10 years old (girl before puberty) should be given in marriage yet it is silent on the consummation of the marriage. But it is quite different from that mentioned in the Vedas. It is said in the Vedas that girls after puberty may be given in marriage. So the injunction given in "Parasara" should

be inconsistent with what is said in Vedas; or "Parasara" is altered by latter-day commentators to an end. In the dark rule of Muhamadan period some beautiful and unmarried Hindu girls were forcibly carried away by the Muslims for marriage or concubinage; but they cannot lay their hands on married girls according to "Koran". So in order to avoid such forcible abduction of girls, the latter day commentators might have laid out an injunction that girls before puberty should be given in marriage. So this is a latter-day injunction not up held by the Vedas. But the Vedic injunction is clear that only girls after attaining puberty should be given in marriage. So one should disregard "Smrithis", for they contain full of interpolations which are generally false and written to gain an object. But the Brahmins only rely upon latter-day Smrithis for their performances of religious ceremonies and consequently give their daughters in marriage while they were in a "Kanya" state (i.e.), before the attainment of puberty. But if we legislate that the girls should only be married after the attainment of puberty there will be a great hue and cry, especially among the Brahmins and will put on a stubborn opposition for the passing of the Act. So instead of fixing the marriageable age, if we only raise the "Age of Consent" to 16, then, in my opinion, their opposition would be softened to a great degree. In order to secure this object in view no amount of education, social reform and social propaganda, even if conducted for centuries, will be of any use to make progressive reforms in this way. So Penal Law should be enforced to secure this end.

**Written Statement, dated the 10th August 1928, of M. R. Ry. K. P. LAKSHMANA RAO, Avl., B.A., B.L., District Judge, Trichinopoly.**

1. The masses are not dissatisfied with the state of the law as to the Age of Consent as contained in sections 375 and 376 of the Indian Penal Code.

2. (1) The absence of any general dissatisfaction is the only justification for retaining the law as it is.

(2) An advance on the present law is desirable from the medical point of view as well as other considerations. It cannot be gainsaid that girls at the age of 14 do not attain sufficient physical development or maturity of understanding to form a correct judgment in such matters and they can be easily tempted. They are not in a position to fully appreciate the consequences of their act and considering that in section 361 of the Indian Penal Code which deals with the offence of kidnapping from lawful guardianship, the Age of Consent is fixed at 16, there is no reason why it should be less in the case of rape outside the marital state, a more heinous offence. As for rape within the marital state though there is bound to be a storm of opposition to any amendment of the law raising the Age of Consent it is desirable to fix it at least, at 14 years to allow sufficient time for physical development between the attainment of maturity and cohabitation. Girls generally attain puberty about 13 years and an interval of at least one year is considered necessary by medical authorities.

3. Crimes of seduction or rape are not frequent in this part of the country.

4. It is difficult to state whether and how far the amendment of 1925 raising the Age of Consent within the marital state to 13 years has been effective in protecting married girls against cohabitation with husbands within the prescribed age-limit by postponing the consummation of marriage as such cases do not generally come to Court. But there can be no doubt that public opinion has been stimulated in that direction and society has been putting off marriage beyond 13.

5. Girls attain puberty in this part of the country between 13 and 14 years among all castes and communities.

6. Cohabitation is not common either before or soon after puberty or before the girls complete 13 years in this part of the country among any class or classes of people and no cases of this sort come to Court.

7. There is no religious injunction for early consummation of marriage before or at puberty, but among the twice-born classes it is expedited as it is thought that till "Garbhadanam" the girl is not pure and cannot attend to all the duties of the household. There is no authority for this supposed injunction.

8. "Garbhadanam" is performed only among the twice-born classes and it coincides with consummation which is generally performed about 6 months after puberty.

9. Attainment of puberty is not a sufficient indication of physical maturity to justify consummation and a girl's physical development may be considered to be enough to justify such consummation without injury to her own health and that of her progeny at least one year after puberty.

10. At the age of 16 an Indian girl will be competent to give an intelligent consent to cohabitation with a due realisation of consequences.

11. I have not come across any such case as contemplated in this question.

12. Early consummation and early maternity are to a large extent responsible for high maternal and infantile mortality though the ignorance of the masses and economic conditions also play an important part in bringing about that result, and they do affect the intellectual and physical progress of the people.

13. Educated public opinion is in favour of an extension of the Age of Consent even in marital cases and there has been a further development of such opinion since the amendment of the law in 1925.

14. The uneducated women do generally favour early consummation of marriage for their children.

15. In the absence of birth certificates or genuine horoscopes the age of girls has to be determined on the medical evidence which can at best be approximate. Attainment of puberty is not a certain indication either but I am unable to suggest any measures which can positively remove or minimise the difficulties.

16. The margin of error will be appreciably reduced if the Age of Consent is raised to 14 years or above.

17. Extra-marital and marital offences have to be separated. The punishment provided by the amending Act XXIX of 1925 would suffice.

18. Within the marital state the trial may with advantage be in camera. The ordinary procedure may continue in the other case.

19. Nothing can be suggested beyond the safeguards existing at present.

20. Penal legislation fixing a higher Age of Consent for marital cases is likely to be more effective than legislation fixing the minimum age of marriage, since marriage where early marriages are prevalent, is really in the nature of a betrothal, and this would be in consonance with public opinion in this part of the country.

21. Progress of social reform by means of education and social propaganda is no doubt preferable to the strengthening of the penal law but the former is by no means quick or certain and legislation seems to be the only effective remedy to secure the object in view.

**Written Statement, dated the 11th August 1928, of Rajkumar S. N.  
DORAI RAJAH, M.L.C., Pudukota.**

1. Yes. My reasons will appear from my views as elaborated below.

2. My first and foremost reason is that we must do all in our power to knock on the head the current idea that once a girl comes of age she is fit

for sexual purposes. Most girls do come of age before what the law regards as the Age of Consent and, though in point of fact, a person does not require marital rites of his wife until some time after she attains puberty, the idea exists that the moment she comes of age she is fit to render them. It is entirely wrong-headed and people must be educated into thinking that girls must not be associated with the sexual act until they are over sixteen.

(b) I want the law to be logical. If you mean to have an Age of Consent, let it be a real consenting age. Better go the whole hog and let there be no tinkering with the idea. Surely, very few girls under sixteen are capable of giving an intelligent consent. If the law steps in to prevent sexual offences, let it do so in right earnest.

(c) Put up the age as high as you can, so that fewer scoundrels can escape after taking advantage of a girl's inexperience and immaturity.

3. Seduction is a secret matter and I suppose it is about as common in this part of the world as elsewhere. One does not hear of it except as scandal, which, of course, one is slow to believe. The standard of chastity is quite high and I am content to leave it at that.

As for rape, one hears of it only through the law Courts. They are by no means frequent and, when a case does reach the Courts, it brings a lot of falsehood in its wake. The victim is often a woman of bad character and she is put up by some local faction or other. One does hear occasionally of a case of diabolical rape, as when, for instance, a tender child is raped by an exceptionally brutal man. There exist everywhere men turned into brutes, by an excessive and perverted sexual appetite. I do not believe that the amendment of 1925 has had any results. Cases of reported rape relate to uneducated people and these people never hear of an Age of Consent until their vakil tells them of it when a prosecution is launched.

• The only way to meet the situation is to penalise sex relations with a woman until she has completed sixteen. It must be blazoned forth from one end of the country to the other that whoever has connection with a woman till she has completed sixteen brings himself within the penal law—whether he be husband or stranger. It will have a stunning quality, will make people think and bring home the law to them in a manner which an occasional prosecution for rape cannot.

4. I never hear of rapes by husbands in my part of the country. By its very nature it must be secret and I imagine nobody outside the family hears of it. The 1925 amendment does not touch it. If husbands refrained from raping their wives, it was not because of the amendment. The man in the street and the man in the fields do not get to know of minor alterations in detail in the law of the land and his actions are not regulated by them. Any way, the offence is by no means, common.

My answer to the three sub-questions is an emphatic "No".

5. Anywhere between 12 and 16. Exceptional cases falling on either side do occur, of course. In the stronger, less sophisticated classes, the average age of puberty is higher. The Kallars, for instance, develop comparatively late. Between 12 and 14 would be the Brahmin average.

6. Before puberty—Extremely rare.

Soon after puberty—Quite common.

Before a girl complete 18—Generally not, unless she has attained puberty. Unless any of these cases amount to rape by a stranger, they do not come before Courts. But these are not common.

7. I don't, except distantly. Hindus have a habit of giving a religious colour to every secular act, but that does not mean that the *Shastras* say so. So far as I have heard, there is no religious sanction for the cruelties under consideration. A Hindu longs for a son, but more than that the grandparents want grandchildren. They try to set up their children in life as soon as possible and get the consummation over as part of the settling up. The only religious idea at the back of the *samskara* of marriage is that a sonless

Hindu is damned but the son may arrive at any time and no husband worries about a son until he has been married for some years and the son does not make his appearance. Early consummation is nothing more than a bad habit.

8. I understand by "Garbhadan" only the consummation ceremony which comes off, as a rule, after puberty. Usually, about a year elapses after puberty before the consummation ceremony is performed.

9. I do not. At the very least, there must be two years' interval between puberty and consummation. I have known girls, with babies' faces, coming of age and not understanding a bit of what it means. In most cases, puberty is nothing more than a sign that development has begun, and not that it is complete. That is why I say, all sexual commerce before a girl completes sixteen should be penalised.

10. Sixteen, at the very least. I should prefer seventeen. Girls have no clear notion as to what the sexual act means. Every country, I believe, to some extent pays for keeping sex matters secret. The whole of the sex relation is invested with mystery, that girls in all countries experience a certain curiosity about it and regard lapses as little more than delicious little wickednesses. I believe a girl will have to be sixteen before she can sense the folly, and the wrongness of loose sexuality.

11. I see around me many young girl-mothers. They appear dried-up and withered though in many cases they are under thirty. It is due, in my opinion, to premature motherhood accelerated by improper, insufficient and unintelligent feeding.

12. I do. Starting sexual life while the parties are still under twenty results in an early sapping up of vitality. The Indian ages fast and that is because of this. One is rarely vital enough after forty to be of real use to his family or the people. And I believe children born of immature parents are themselves of a very poor quality.

13. There is doubtless an increasing body of opinion in favour of raising the Age of Consent but I won't say how far it is due to the Bill of 1925. The educated classes are in favour of it. The uneducated never think about it.

14. I am afraid they do.

15. I don't think there has been any considerable difficulty under this head. The Registrar of Births must see that false ages are impossible to give.

16. As the margin of difference in a question of age is frequently never more than a year or so, the difficulty will always exist.

17. I would not punish the husband so severely as the seducer. They must be different offences.

18. I would try marital offences *in camera* by a first class Magistrate. I would not make it a Sessions case.

19. I have none to suggest.

20. I vastly prefer a minimum age of marriage. It would be difficult to prove absence of consent and one can easily dupe the law. Penalise marriage before a certain age and all difficulties will vanish. Intelligent public opinion will be on my side. The majority would probably prefer the former. I would prefer social propaganda. But the law must help in the matter. Introduce the needed legislation and the social reformer would find an easier audience. Else you will find the pundit butting in with absurd texts and our people are so intensely conservative that they would not dare break the manul. The notion of punishment will stimulate the social conscience and obviate the chances of unintelligent opposition. I hold it as part of the function of the law to turn the ideas of the people into proper channels. Legislation will achieve in a year what the social reformer cannot in ten.



**Written Statement, dated the 30th August 1928, of Mr. S. ARPUDASAMYUDAYAR, M.L.C., 31, Allimal Street, Trichinopoly (Madras Presidency).**

1. To the best of my knowledge and experience, I am not aware of any dissatisfaction with the state of the law as to the Age of Consent as contained in sections 375 and 376 of the Indian Penal Code. I attribute the apparent general satisfaction to the following (a) 95 per cent. of the people in the Tamil area are illiterate. They have no knowledge of the sections here indicated. They follow their traditional customs and, even where there are infractions of the law regarding the Age of Consent, no one thinks of them, and no one thinks of prosecuting the breaker of the law. Both the sections here referred are a dead letter. They may be expunged or altered without anybody being the "sadder" or the wiser for it. Habit is second nature. People will go on with their present matrimonial arrangements, undisturbed by these sections, and any one who should try to ensure greater respect for these sections by a prosecution in a law court would be looked upon as a cruel, heartless revolutionary.

(b) Dissatisfaction with the existing provision will arise when a serious attempt is made to bring to book the present offenders, who evade the law, in this respect, with indifference and impunity and, in many cases, without any knowledge of their existence. I may make my meaning clear by a reference to the dissatisfaction which exists in rural areas with the ages prescribed by canon law for boys and girls are sixteen and fourteen respectively. I have been often asked by catholic parents in villages (not in urban areas) to write to the Bishops and get an exemption for their girls being given in marriage in their twelfth or thirteenth age.

2. I do not think it advisable to make an advance on the present law beyond adding one year to girls. Physiologically the age of 14 for girls and of 16 for boys may be held to be eminently reasonable. At these ages, they are mature and capable of discharging their conjugal debt to each other without serious physical or moral detriment. And, as for the danger of their physique being undermined by inordinate sexual intercourse, the discipline of an Indian home, the restrictions imposed by a mother-in-law or sister-in-law or other elderly members of the family are generally found to be salutary. They may err on the side of vigour, but never on that of clemency. I would, therefore, approve of the Age of Consent, in the case of the girl being raised to 14, and of the boy to 16. Any further advance is physiologically unnecessary and will legally work great and unmerited hardship.

3. Crimes of seduction and rape are conspicuous by their absence in villages where boys and girls are very often thrown together and work in the open fields side by side. They require concealment and secrecy which are not to be had in villages, at least in the dog, and less fertile areas of this province. Here, people spend the greater part of their life in the open, tending cattle and sheep, gathering dry leaves and twigs for firewood and carrying out agricultural occupations. Where the vast majority, young and old, are out the greater part of the day, there is always company. Where men and women go astray and this generally happens with people above twenty, such transgressions are easily and promptly detected and punished. Even in the few cases I have come across of villages sinning openly, the delinquents on the female side are widows or women who have openly quarrelled with, and run away from their husbands or those who, through the fault of their own husbands, who for purposes of posts or help, allow their friends to remain often and long in their houses, are exposed to the danger of a fall. But as for rape between young husband and their younger wives, or between young boys and girls still unmarried, I have not heard of such cases in villages. I have heard of some stray cases of rape in houses. Even here the prevailing evils are adultery and sodomy. In the case of regular marriages husband and wives are brought together only when they have attained the age when marriage can be consummated. With regard to boys and girls, oriental suspicion is still strong and will not permit of their being allowed to talk to,



each other, immediately after girls have attained their puberty or are supposed to be developing to that state. They are always under the vigilant eye of their parents and elders. Regarding the seduction of girls for immoral purposes, almost all the cases I have known are those of young widows or girls who had to wait two, three years or more after their puberty, before any eligible husband could be found for them. It is this fear of a possible fall that account for the fact that outside the Brahmin community, where pre-puberty marriages are the result of custom raised to the position of a positive religious law, mothers are more anxious than even fathers that their girls should be given in marriage when they are about to attain their puberty or immediately after they have attained it.

4. As I have already stated more efficacious than the operation of the amendment of 1925 is the force of custom which will never tolerate the bringing together of a husband and wife for the exercise of their conjugal duties before they are ripe for it which is only at 13 or 14 in the case of girls.

As for the postponement of the consummation of marriage by putting off marriage beyond 13, the spread of education and the operation of economic factors have led to this desirable result which the amendment was intended to bring about. Even among Brahmins child marriages are discouraged. The critical age is 12 or 13. This naturally leads to the next question.

5. The usual age at which girls attain puberty in Southern India is 14 in towns and 15 in villages. The difference is due to the fact that in rural areas girls have to work hard and their thoughts are fixed on household economy and income rather than on marriage, while in houses people begin to propose matches and think seriously of alliances when girls are in their eleventh or twelfth year. Girls attending schools attain their puberty in their fifteenth or sixteenth year. The event comes off a little earlier among Brahmins, Sourashtras and in well-to-do non-Brahmin Hindu families, a little later among other castes and especially among the working classes.

7. The practice among Brahmins in these parts is to have marriage before puberty and the consummation after. This is due to religious injunction. The penalty for breach of this custom is social ostracism and religious excommunication. I have not heard of any relaxation of the rule countenanced either by the Sankarachariar or Madhavachariar or the year of Nanguari. These are the three high priests of the three broad religious divisions that exist in the Brahmin community. If other communities follow this practice it is because, as I have already stated, they have an apprehension that some story might be spread about their girls, that some attempt might be made to decoy them through women paid for that work or that their relations and friends might look upon it as a degradation that they had no good offers for their girls, either a little before puberty or a little after it. It is a reproach to many that they had to wait a few years after puberty to get a good husband.

9, 10 & 12. I think a few months after the girl has attained her puberty, her physical development is sufficiently rapid to justify consummation of marriage. With regard to girls belonging to the families of working classes or agriculturists, they work harder after their married life than before, with the result that no injury is done to their own health and that of their progeny. Boys and girls in schools, except among Brahmins, generally marry a little before they have passed their adolescence. But in the case of the many, postponement of marriages may not be desirable. The former are interested in studies and examinations in games and matches. They have to work hard and be under discipline. Both the mind and body are occupied of the later, it may be said, that many have no regular occupation, interests, hobbies or games even. Young men of this class do not take life seriously and in earnest until they begin to have a family. Then they become respectable householders, cherish their wives and love their children. To meet all these cases, it would be unwise to extend the Age of Consent beyond 16 and 14 for boys and girls respectively. A boy of 16 and a girl of 14 who are not attending school or are not apprenticed to a trade where they have to work regularly are far better married. Conscience begins as soon as the signs

of puberty show themselves. Even where physically it might be bad for them, morally it is good that marriage should be consummated. Left free they would be ruined both physically and morally.

14. Yes. In addition to the reasons already given<sup>a</sup> I may add others. Parents base their anxiety for early consummation on the well-known frailty of human nature. "Safety first" is their motto. They think<sup>a</sup> that a young girl learns more easily to obey her mother-in-law and husband's people and to live peacefully with them. They wish to settle their children, to marry them before they die. They do not want to lose a good offer. They might not have one later on. The older the girl, the lesser the chances of good offers. People will say there must be something wrong with her, else she would not have remained unmarried still.

Therefore it is expedient to raise the age to 16 and 14 and leave any further extension to education and propaganda.

**Written Statement, dated the 28th August 1928, of Mr. M. YENKATA-CHALAN PILLAI, B.A., B.L., Yakil and Municipal Councillor, Tanjore.**

1. There is some general dissatisfaction that the Age of Consent of girls according to the Indian Penal Code is low.

2. I am of opinion that the present law should be amended. Young girls who have not developed sufficient reasoning faculties are very often taken away without the consent of their parents on the pretext that the girls consent to marry such and such men. Subsequently, the girls see their folly. Such things will not occur if the Age of Consent is raised to sixteen, when the girls will be able to select proper husbands realising the consequences of their choice. Till that age is attained, the girls must be kept under the control of their parents, removal from whose custody without their consent must be penalised.

3. Such crimes are not frequent, but they do occur occasionally. The amendment of 1925 does not seem to have any effect in reducing cases. Fourteen is just the age when the girls are generally fit for sexual intercourse. Cases before 14 do seldom occur. If the age is raised to 16, it will have an effect in reducing cases.

4. The amendment of 1925 does not seem to have any effect. The effective remedy will be to put off marriage beyond 13. No doubt this will create a storm of opposition from the orthodox Brahmins. However, the punishment for a marriage below 13 must be restricted to fine. Public opinion will have to be educated in the meantime till it attains such a stage, when the marriage below 13 will be considered by all to be an offence. Then the punishment may be made severe.

5. Girls generally attain puberty at the age of 12 or 13. In labour classes, the girls attain puberty at the age of 14 or 15.

6. None of these cases come to Court in these parts. They do not seem to be common in these parts.

7. In the case of orthodox Brahmins, there seems to be some religious apprehension that every girl ought to be married before puberty. But when the Shastras are examined, there seems to be no foundation for it.

9. It is not so in all cases. Girls with weak constitution, but with good food and nourishment, do attain puberty at the age of 12, when they are not fit for consummation of marriage. Generally when girls attain puberty at 14 or 15, they are fit for sexual intercourse. Generally 15 is the reasonable age at which marriage may be consummated otherwise the girl gets some disease, grows weak; and the progeny also grow weak.

10. At the age of 16, a girl in India is competent to give an intelligent consent to cohabitation with a due realisation of consequence.

12. Early consummation and early maternity are responsible to a certain extent for the production of weak children and inefficient mothers. Consequently children are not taken proper care of by the mothers; and some of the children have to succumb at a very early age.

14. Women in our parts favour early consummation of marriage for their children.

15. Difficulties have been experienced in determining the age of girls in connection with offences under sections 375 and 376 of the Indian Penal Code. Birth registers maintained with due care by any public body, will minimise these difficulties.

16. The margin of error will be a little less if the Age of Consent is raised to 16, as at that age a girl is bound to have sufficient visible frontal development.

17. I would certainly make a distinction between marital and extra-marital offences. For marital offences, only fine ought to be inflicted. In other cases imprisonment ought to be given. In the former, it is due to ignorance. In the latter it is intentional.

18. In the case of marital offences the enquiry ought to be conducted in camera. In the case of other offences the enquiry may be conducted either in camera or in public Court, according to the status of the parties concerned.

20. Legislation fixing the minimum age of marriage is more effective and will also be in consonance with public opinion. No doubt there may be some opposition from orthodox Brahmins who after all form a small minority, although influential, in the Indian population. Even among Brahmins who now groan under the system of dowry (bridegroom prices) this legislation is bound to be received with joy as fine advances. This will also serve to ameliorate the social condition of the Brahmins.

21. In the case of strangers, I would certainly invoke the aid of the penal law to put down extra-marital offences with an iron hand. In the case of offences committed by husbands, I would resort to the mild but more effective weapon of social reform, for preventing these offences.

**Written Statement, dated the 13th August 1928, of Mrs. R. HEJ-MADI, Kumbakonam.**

1. There is no dissatisfaction with the law under sections 375 and 376, Indian Penal Code, in the sense that it promotes early consummation of marriages, but it is desirable that the Age of Consent should be raised by an enactment to minimise the evil effects of the custom of early marriage prevalent in this country which social reform is too slow to alter.

2. The following reasons justify making an advance on the present law:—

- (a) It is necessary to raise the Age of Consent to 16 years because a girl is physically unfit to become a mother before she is 16 years old.
- (b) Before a girl is 16 she will not be mentally developed enough to realise the responsibilities of motherhood.
- (c) The law if passed will effect the Hindus only. As the joint family system is slowly breaking up, it is necessary that a girl should be old enough to look after herself and her children when she sets up house.

4. I do not think that the amendment of 1925 has been effective in protecting married girls against cohabitation by postponing the consummation of marriage for the following reasons:—

- (1) It seems to me that the mass of people are not aware of the amendment. 13 is about the age when consummation of marriage

usually takes place. Exceptions which are very rare are not likely to be brought to the notice of the public. Thus the amendment has not materially effected custom prevalent in South India.

- (2) The amendment has not stimulated public opinion because it has not brought about far reaching changes.
- (3) The amendment has not put off marriage beyond 13 because there is no rule prescribing the period within which consummation should take place after marriage.

5. Girls attain puberty generally between 12 and 14 in Southern India. There might be exceptions in individual cases, but from what I have known it does not differ very much in the different castes or communities.

6. (1) There is no cohabitation in Southern India before puberty. I have not heard of any cases where it has happened.

(2) The consummation generally takes place soon after puberty among all sects of Brahmins and other castes who marry their girls before puberty.

(3) I have not come across any case during the last 3 years.

7. As far as I know there is no religious injunction which lays down early consummation of marriage soon after puberty. The consummation can take place at any time after puberty according to the convenience and desire of the parents of the parties concerned.

8. The consummation of marriage is known as "Rithu Shanti" in the Tanjore District. There is no other ceremony known as "Garbhadan". The marriage is consummated as early as possible after puberty.

9. I do not consider the attainment of puberty as a sufficient indication of physical maturity to justify consummation of marriage. The girl's body is not fit for consummation till about 4 or 5 years after the attainment of puberty and never before she is 16 years old.

10. An Indian girl cannot give an intelligent consent to cohabitation before she is 16 years old. 18 would probably be the more correct age among the educated and better brought up families.

11. I have heard of several cases. I give below the details of 3 cases that I personally know:—

(1) The girl was married at 10, and attained puberty at 11. The consummation took place just after puberty. The first delivery was of twins at the age of 13. Both the children suffered from rickets. One lived for one year. The other is still alive and is now about 25 years old. The mother did not regain her strength till 6 months after delivery.

(2) The girl was married at twelve (12). She attained puberty at 13 and consummation took place soon after. The first delivery took place when she was 14. The child now 8 years old is still suffering from convulsions and is very weak. It cannot even talk properly though it has the intelligence to understand others.

The parents in both the cases were normal and from healthy families. The father in the first case was 28 at the birth of the twins and in the second case he was 22 years old.

(3) In another case the girl was married at 12 and had her first child at 13 and the second at 16. She developed tuberculosis and died when she was about 18. The second child now about 10 years old is a weakling. The father, a very healthy man, was 24 at the birth of the first child.

12. Early consummation and early maternity are to a great extent responsible for the high maternal and infantile mortality. There is no doubt that it has been vitally affecting the intellectual as well as the physical progress of the people.

In castes where early marriage and early consummation are prevalent it is a well known fact that the physique of the people has been degenerating in each generation. There is also a saying among some people that the first born child is always a dud. Evidently experience has shown that the children born of young parents are below the average in intelligence.

14. Women, especially the experienced old ones do not like early consummation of marriage for their children, though they are in favour of pre-puberty marriages.

16. I do not consider that it is necessary to separate marital from extra-marital offences if the Age of Consent is raised to 16.

20. Fixing the minimum age for marriage at 16 will be more effective than fixing a higher Age of Consent for marital cases, because offences against the marriage law can be more easily detected and more easily proved than offences against the Age of Consent Law.

Orthodox public opinion of Brahmins in particular is against the fixing of the age of marriage though it professes at present to have no objection to a late consummation.

21. I should prefer to rely on the strengthening of the penal law rather than on social propaganda, because the latter procedure will be too slow to put a stop to the evil effects of early marriages which are already doing havoc to the nation.

### **Written Statement of Mr. K. SAMASUNDARAM AIYAR, B.A., B.L., Advocate, Melur.**

1. There is a general dissatisfaction among the educated class as to the Age of Consent as contained in sections 375 and 376, Indian Penal Code, as well as among the uneducated orthodox people. The former are for raising the age and the latter are not for fixing any age-limit. I have known cases that in some country parts, orthodox people celebrate the consummation marriage on the 4th day after the woman takes her bath.

2. I am for making an advance on the present law. Consummation of marriage before the age of 16 makes the woman a wreck in most cases especially when she gives birth to children successively every year, so much so that the woman is quite unfit for conjugal love. In some poor families the children suffer very much for want of food and the child-mother is not physically strong to attend to her household duties and the condition of the family prevents it from employing a servant.

3. Very very rare. The raising of age to 14 is good so far as it goes. So far as I am aware, the raising of the age has not materially prevented or reduced cases of rape outside the marital state. Any age-limit fixed by the statute will be of no avail to the offender unless his conscience prevents him from committing the offence. Education, especially religious one, may help a great deal in the matter.

4. Practically the new provision made in 1925 is a dead letter. So far as I am aware no cases of cohabitation by husbands with wives under 13 years of age have come to Court, though many cases occur daily throughout our Presidency. Among the higher caste, consummation of girls generally takes place before 13. I would suggest that education and public opinion will go a great way in the matter and bring about the desired result.

5. Generally girls attain puberty between the ages of 12 and 13 in these parts. Among higher castes such as Brahmins and Vysas the girls attain puberty sooner but in the case of other castes especially the labouring class it takes longer time for girls to attain maturity and generally among such people girls attain puberty between the ages of 15 and 16.

6. (1) Generally not.

(2) Some few cases when the parties are orthodox people living in country parts.

(3) There are cases. To my knowledge none of the above cases has come to Court.

7. So far as I know there is no religious injunction forcing the early consummation of marriage before or at puberty.

8. This ceremony of "Garbhadan" is performed in our parts of the country among the higher caste, such as Brahmmins. It coincides with the consummation of marriage. It is generally performed after the attainment of puberty and when the consummation takes place.

9. In most cases, generally, attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. But it does not necessarily follow that consummation should take place soon after puberty, generally it may take one year at least for the proper development of the girl before she is fit for conjugal love. I may suggest that the consummation should be deferred for a year at least after puberty in all cases and for longer period in special cases.

10. I may fix the age at 10.

11. I have known a few cases. In one case a girl attained puberty in her 10th year and soon after consummation took place. In her 12th year she gave birth to her first child and before she reached her 20th year, she was the mother of 3 or 4 children. Her eyes were sunken, some of her teeth have fallen and she was a pale and emaciated girl, too weak to attend to her household duties. It was a pitiable sight to look at her children weak, big bellied, narrow necked.

12. Yes. We are told that our forefathers were married in their 20th or 25th year and our mother and grandmother were consummated in their 16th or 17th year. Their progeny was hale and healthy and strong. They lived long age up to 60 and 70. They had no diseases and they had no infantile mortality.

13. Most of the educated people are for further extension of the Age of Consent since the amendment of the law in 1925, barring of course some orthodox people. It is general and not confined to certain classes.

14. There are, of course, some old and uneducated women in our parts who favour early consummation of marriage but the number is growing less and less and in the near future there will be none who are in favour of early consummation.

15. Considerable difficulties are experienced in determining the age of girls in connection with offences under sections 375 and 376, Indian Penal Code. Generally medical evidence is sought for. Doctor's evidence makes a margin of 1 or 2 years and it is not precise. It has been held very recently in a case reported in (1928) Lahore, page 250, that medical evidence is not of much help in determining age. Next best we have the horoscope of girls. That too is not safe in determining some cases. In some cases they are created for the purpose of the case. In very many cases no horoscopes are kept. I would suggest that the production of extract of birth register of girls would minimise such difficulties to a little extent.

16. I do not think the remedy suggested will cure the defect.

17. To my mind, the two offences should be different altogether. The case of marital offence should be viewed more leniently than the other one. I would suggest that a fine only not exceeding Rs. 100 should be the maximum punishment for a marital offence. With regard to the other offence the punishment may stand as it is.

18. I would like to make a difference in the procedure of trials for offences within and without marital state. Offences of marital state may be tried by the presiding judge or magistrate in chambers outside the public view, for persons both men and women interested in the married couple may have to give evidence and they may have to reveal some secrets which they may not like the outside public to know.

19. Rich, honest and respectable pattadars may be appointed by Government for a particular area to whom notice of consummation ceremony should

be given one week before the ceremony by the party interested in such marriage so that such person might witness the marriage and report to the Tahsildar or such other authority within the taluq. if need there be, about the underage of the parties to such marriage.

20. To me it appears that fixing a higher Age of Consent for marital cases is likely to be more effective than legislation fixing the minimum age of marriage in this part of the country.

21. Any passing of the penal law will not, in my view, have the desired object. Human intelligence will find out ways and means how to successfully evade the provision of law and the law has to be repealed very often whenever new cases of evasion occur. Social reform by means of education and social propaganda will, in the long run, achieve the object in view. But the process will be slow but sure

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**Written Statement, dated the 10th August 1928, of Mr. M. S. P. SENTHIKUMARA NADAR, Member, District Board, Ramnad.**

Before entering into a direct answer for the items in the questionnaire. I would like to put forth before the committee a few points regarding Indian social feeling. Society in India is so mingled with religion that even eating, drinking and sleeping, the common happenings in ordinary life, are attributed to some religious injunctions or other. And the fanatic superstitions and blind beliefs, inborn as they are, are so constitutional and deep-rooted in Indian minds, that even the most cultured of the Indians cultured in the Indian point of view, cannot form a slight distinction between society and religion. To them religion was society; society was religion; both being mutually inseparable. As such any Gubernatorial move to create a change in their social circles, seemed an unnecessary mischievous interference. They paid no heed to all the Government beseeches. The Government measure, however, beneficial, proved absolutely ineffective unless the said measures prescribed proportionately severe penalties for a breach.

But, thanks to modern progressive agitations, the growing consciousness of the rising generations, revolt against the old pseudo-religionists who traduced the religion itself. Accredited dogmas of the past are begun to be disbelieved in and scientifically questioned into. Enlightened sections of the country feel it necessary, and are working heart and soul for a revolution and reformation of Indian society by paracleteing hard state rules. Their zealous ambition to purge Indian society of all baseless beliefs and quixotic notions is growing by leaps and bounds. Necessity for building Indian society on a solid basis unallied with crude notion of yore is being keenly felt in several quarters. In fact Mr. Sarda's Bill in the Imperial Assembly and Dr. Muthulakshmi Reddy's move in the Madras Council are happy results of broad awakening of the mass. To accelerate the growing revolution and to easily move a certain class of stubborn orthodox communities, who pose of being super-human and divine born, penal laws are absolutely necessary. Hence I recommend the committee to enforce penalization of breaches, as is definitely laid down in Mr. Sarda's Child Marriage Bill. In fact Lord William Bentinck's success in eradicating the destructive *Sati* practice in the early period of 19th century cannot but be boldly attributed to his penalising policy.

I feel the committee would perhaps do noble service to India should they wisely adopt a similar policy, in case of wanton breaches of laws tending to social progress.

**Answers.**

1. The very existence of such sections in Indian Penal Code is scarcely known to a majority of the public who are generally unlettered. Government propagative work in this aspect is unsatisfactory. Hence it is rather not an easy job to define whether people appreciate or depreciate the state of law as to the Age of Consent as contained in the sections referred to.

2. (2) I am in favour of making a slight advance on the present law in support of which I am stating following reasons:—

- (a) Aim of marriage is production of a healthy child, sound in intellect and strong in body, who can boldly champion the cause of his or her nation. A child of this sort can be brought forth only by a scientific and systematic cohabitation, a definite period after puberty. Puberty is generally attained at 13—14 (*vide* answer 5). Hence healthy cohabitation without jeopardising the mother and child is possible only after 14.
- (b) Physical point of view is noteworthy. A careful observer of human growth can easily understand that it is only during 12—13 that a girl's physical conditions improve. Under 13, we find the girls tiny playful creatures without adequate physical strength to bear the difficulties of a married life. Only after 14 girls display an appreciable advance in their strength.
- (c) It is a fact, known to every body, that marriage involves a considerable responsibility for the married couple. In fact, child-mothers cannot be expected to be acquainted with all responsibilities of a complicated domestic life.
- (d) Last, but most important of all, is the educational point of view. Marriage at premature ages 12—13, is really undue encroachment upon educational progress of Indian womanhood. Study after marriage, being too uncommon in India, these young couple, for reason of their early marriage, leave educational institutions, without fully equipping themselves. Discourse on necessity of education for woman is obviously out of place here.

In view of similar facts marriage after 14 for girls and 18 for boys is recommended which means an advance in the present law (*vide* Sardar's Bill).

3. Generally crimes of rape are not found in our part of the country. But seduction is heard of here and there. It is regrettable to note that mothers, wicked and immoral as they are, assist their girls in this direction. Hence the amendment proved vain. If regulations are made to severely punish such mothers the law may be effective.

4. The three clauses stated in the question cannot bring the desired object. For a speedy attainment of the object child-marriage should be legally penalised. Perhaps Sardar's Child-marriage Bill, now under consideration in the Indian Legislative Assembly, would be of immense help in this direction. Hence let us all pray for an immediate promulgation of Mr. Sardar's Bill.

5. Usual age at which girls attain puberty is 13—14. In my opinion latter part of the question is rather out of place. Human composition being same everywhere, girls living under similar conditions and circumstances attain puberty at approximately same age. Castes and communities being artificial creations of human imagination cannot tend to affect human physique and create a difference in age of puberty.

6. Cohabitation, under all the three conditions stated in the question, is common among richer families of almost all classes and communities, if the parties are married. But cohabitation before marriage is quite uncommon and unheard of. Even if there be any, none of these cases come to Court in view of connected infamous episodes behind them.

7. Early consummation is uncommon in all of the communities except among a few section including Brahmans. Even there, custom, not religious injunction, is attributed to the practice. Consequently our religion prescribes no penalty. Plea on behalf of early consummation in the name of religion is baseless and unfounded.

8. "Garbhadan" ceremony is usually performed among Brahmans only just before nuptials after puberty. Since early consummation prevails among Brahmans, we cannot definitely say whether "Garbhadan" coincides or is



anterior to consummation of marriage. It is performed on any one of the days within six months after fourth day of puberty.

9. I do not consider attainment of puberty as a sufficient indication of a girl's physical maturity. Experienced physicians opine, that it is during puberty that a female undergoes a considerable modification and is developing to experience a new sphere of activities. And it requires for her, at least one year after puberty to come to a normal condition, which period can be safely taken as enough for the marital consummation. Else, it is scientifically proved, that health and growth of her progeny are greatly deflected.

10. I hope, that only after 15, our girls can give an intelligent consent to cohabitation with due realization of sequels.

11. Cases of the sort referred to are innumerable. But generally results are not realised immediately after cohabitation. It is only during delivery time that results are surely felt and mistakes deeply atoned for. But what can a belated wisdom do? Many cases, often resulting in deaths of the immature child-mothers and undeveloped progeny, can boldly be cited. Many lady doctors everywhere can produce interesting but pathetic instances.

12. Reply is obviously in the affirmative. Trees planted out of unripened seeds yield fruits of less taste and nutrition. This botanical enunciation holds good to humanity also. Children, evolved out of an untimely union of premature girls and boys are not sharp in intellect and long in age. Further discourse on this simple fact is superfluous.

13. Yes. There is considerable development of public opinion in favour of an extension. Owing to valuable services by some social workers and non-Brahmin press, there is a wide awakening of the masses. This awakening is noted in all communities except in a narrow section of orthodox Brahmins. In this connection precious service by non-Brahman leaders in Madras cannot but be appreciated.

14. Yes. In their desire for a momentary hallucination and ostentation they favour early consummation. But among the educated section the practice is becoming practically obliterated. Elucidation of the attendant horrors may perhaps convince the womanhood against early consummation.

15. But for the Government birth registrations, the difficulties are in abundance. To minimise these difficulties puberty and marriage registrations should be arranged and certificates for each issued with particulars of age at which puberty is attained and marriage performed. Duplicates for such certificates must be retained with the officer whose office must be side by side with the register of births and deaths.

16. The margin of error in determining the age will be materially minimised if the Age of Consent is raised to 14 years and above for girls.

17—18. The two offences are completely different in nature, marital offence being more serious. I do not desire to prescribe different procedures of trial. It is extremely benefitable for society if such cases are heard in Courts, not open to press since details of these stories, when retold, may perhaps induce others, also to perpetrate the same crime.

20. I consider that penal legislation fixing a higher Age of Consent for marital cases is more effective. In our parts this aspect is in consonance with public opinion.

21. In an oriental country like India where there is a serious divergence of castes and communities, propagative work will be of no use. Consolidated opinion in favour of similar legislation can never be expected to change. Superstitions and fossilised notions, which form a great obstacle in the way of progress, are still in full swing in various parts. Unless Government intervene with penalising measures, the object cannot be secured. Bold and daring policies, recently adopted by the Amir of Afghanistan and Mustapha Kemal Pasha of Turkey, should be resorted to, if Indians desire to overthrow their age-long social evils.

**Written Statement, dated the 5th August 1928, of Rao Bahadur P. S. RAJAPPA AYL., Chairman, Municipal Council, Tanjore.**

With reference to the questionnaire issued by the committee, I have the honour to state that in my opinion it is advisable to marry girls only after they attain sufficient physical growth. Physical development varies according to the climatical conditions in which the girls live, and the status of life they lead.

I do not think it would be advisable to raise the age-limit in India as it is in the cold countries of the West, and to make any additional provision in the act other than those defined in sections 375 and 376 of the Indian Penal Code, and the amendment made in 1925. Moreover it is found in experience that, though enactments are made in good sense for the betterment of the people and the Government, it is found difficult to put all of them into operation so as to reap full benefits therefrom. The more the number of laws, the greater will be the difficulty to enforce them. Therefore I believe that the desired progress in the matter may be more easily and effectively achieved by educating the people and by vigorous social propaganda than by multiplying penal laws.

Yes, I beg to offer my opinion on the points that are raised in the questionnaire.

1. No. I have not come across any case or complaint which cannot be penalised under the existing laws and which necessitated recourse to any other laws than the existing ones.

2. The society does not prohibit girls marrying after attaining maturity except among Brahmins who are also making considerable advancement in the right direction.

3. No. The crimes of seduction or rape are not very frequent and common.

4. No. I don't think so. Only by educating the public.

5. From 12 to 14.

6. Yes. Among the Sourashtras, I understand that cohabitation is allowable in their community.

No. They do not come to Court.

7. It is said in verse 90, Chapter IX of the Code of Manu, that a girl should wait for three years after her puberty to be married with the consent of her father and after that she can herself choose her husband. That means a girl can marry only 3 years after her puberty, and in my opinion it seems to be the time prescribed for consummation of marriage.

8. I have no information.

9. The attainment of puberty is an indication of physical maturity. Yet it is not a sufficient indication of the full development of body to beget healthy issues.

10. Fifteen.

11. No. I have not come across any such cases.

12. I have no knowledge or information.

13. I have no idea.

14. Women in our parts are not educated to such a proficiency as to be able to express any opinion on the matter.

15. Nothing.

16. I am unable to express any view on the point at this juncture.

17. No separation is necessary. Nothing more than the existing provision in the act is necessary.

18—20. Nothing is required.

21. Expressed already in the preface.

**Written Statement of M. B. Ry. N. C. NARASIMHACHARIAR,**  
**, A.L., B.A., B.L., Advocate, Karur.**

1. There is no dissatisfaction. Among the Hindus the girls generally attain their puberty between 12 and 13; the dowry system, i.e., the presentation of costly materials to the bride or the bridegroom at the time of the celebration of the nuptial ceremony is rampant and the parents of the girl have to make preparations by way of securing money for the celebration of the nuptials. This generally takes one year for the parents to get ready. The girl's health also is considered and time is given for her development. These two causes contribute necessarily to postpone the celebration of the nuptial ceremony beyond the 13th year. So the law as regards sexual intercourse by a man with his wife before 13 is penalised and the said law is working to the advantage of the people. As regards strangers, till 14 the girl is considered too young to give her free consent to sexual intercourse. Thus to penalise such connections before 14, even in case of consent, is a wholesome provision and works advantageously to the interests of the society.

2. With regard to sexual connection with one's wife the law as it is sound and must be continued. Among the Hindus none will permit the young girls to be without consummation with their husbands after the lapse of a maximum period of one year after puberty. In marriages at the time of the betrothal ceremony bridegrooms are so selected as to have been well up then in general educational qualification—boys after intermediate examination are selected for giving away their daughters in marriage. There is roughly a difference of between 5 to 7 years generally between the ages of the married couple. When the girls attain puberty the husband would be nearing 20. Within a year after puberty the husband would have been roughly 21 and the parents of both the married couple desire the celebration of the nuptials of the married couple so as to prevent either of them going astray. As such the nuptials might be before 13 and cannot be extended further. The general health of the girls cannot suffer with that precaution.

As regards strangers the Age of Consent might be raised from 14 to 16 as proposed. No man has a right to induce a girl below the age of 16 to consent to intercourse when the girl's mind is pliable and has not matured so far as to make independent judgment as to the results of her action. But it might be argued that in the interests of advancement of society this disparity should not exist. Apparently sexual connection with one's wife between 13 and 16 is not penal whereas a stranger's connection between the said ages is penalised with 10 years' rigorous imprisonment. Though this disparity might be considered as unreasonable its existence can be justified on other considerations. The wife is under the control of the husband and under the supervision and control of her kith and kin with regard to her morality and many circumstances deter excesses. That safeguard preserves the health of the wife. But with regard to strangers the generality of cases must exist in case of public women. In such cases young girls would be ruined by excesses and the said penal provision will surely protect young women from degradation to immorality.

3. There have not been many cases of seduction or rape brought to light and going up to law courts and ending in convictions. In actual cases of rape the parties interested in the girl do not consider it wise to bring cases of rape to light as the girl's future prospects in life will be highly marred. The girl if unmarried would not get husbands to marry. In married cases the girls will be expelled by husbands and the girl will eventually be deprived of husbands or parental protection and would become a disgrace to society. In the face of such evil consequences rapes are very often hushed up. Therefore there are not convictions.

The amendment has to a large extent controlled the morality of the public woman. In the dancing girl class girls soon after attaining puberty are considered of high price. Advancements are made to the guardians of the girls with heavy sums for the consummation. Both the sides feel happy in the matter and the result is the poor girl is sacrificed to enrich her

guardian. Such cases which were numerous before the amendment have been brought under control and there have been no sacrifice of such girls before 14. The raising to 16 will benefit the society still further as the girls in such classes will themselves have sufficient strength of mind and powers of discrimination in the selection of their lovers.

4. Amongst Hindus several sects follow different customs in the matter of marriages. With non-Brahmins there is a general custom allowing marriage of girls after puberty. In such cases the marriages are often performed after 14. Marriages below that period are very rare. As such the amendment bringing the consummation of married couples to the age of 13 has not in any way affected such class of people. With regard to Brahmins, they have a rule to have the betrothal ceremony before puberty and the actual nuptial ceremony after puberty. The girls generally take to age between 12 and 13 to attain puberty and one year is generally taken for the preparation of the parents for the celebration of the nuptials. Therefore the nuptial ceremony often comes after 13. In very rare cases there might be nuptials below 13. Such cases being very few the amendment to 13 has not been appreciatively felt as an advantage. Such a provision is salutary to control the consummation of married couples.

5. Generally the girls attain puberty between 12 and 14. Between 12 and 13 there might be 50 per cent. and between 13 and 14 there might be other 50 per cent. In hot climates to which the Hindus are acclimatised the development of girls is rapid especially with higher classes where the girls command greater comfort and convenience the puberty of the girls would be sooner, i.e., between 12 and 13. With working classes who are poor and bask in the sun and earn their bread the puberty is attained at a later age sometimes even at 15 and 16. The age of puberty depends much upon the climate and on the comfort and convenience of the girls. The want of proper exercise and customary purdah system of females to a large extent impede the development of girls. With the advancement of female education and the opening of more girls schools the girls will get open air exercises and get educated in all matters for the welfare of her future household. As advance is made in this direction the development of the prosperity of the future female generation can be attained.

#### 6. (1—3) No.

In many places the advancement of civilisation has brought on with it the freedom and liberty of the females and though we much appreciate our female generation to get educated in this direction and to have freedom of thoughts and action we cannot be slow in recognising the rapid increase of immorality in many big cities and temple centres. The people do not need to degrade themselves in the appearing of their sexual appetite with young girls before puberty.

7. Ancient law-givers of Hindu society have so far intermixed law and religion and society as to make it impossible to separate one from the other. Social and religious matters are intertwined. In the several stages of man's life, each stage has its religious duty to perform. There is the age of thread wearing ceremony, the marriage ceremony and the ordinance of married life up to a certain stage and then become a divine by entering the domain of Sanyasin, etc. With regard to girls we have a similar regulation. Before her puberty she must have been betrothed to a man of her caste and class. The choice of the bridegroom is with the parents. At such a tender age, girls are considered unfit to make a choice of their husbands. Even in cases of bad selections by parents, the girls submit quietly attributing the selection to fate. The marriage is a religious sacrament with the Hindus. She becomes half with the husband and there is no possibility of the severance of the marital life. It is not of civil nature permitting divorce. Neither the wife nor the husband can divorce the other. They are wedded for life and drag on their existence happily or otherwise whatever might be the circumstances. The Brahmins as a class are under that religious ordinance. The three other classes of Hindus are under no such religious control. With them the raising of the age to 14 in respect of marriages

as proposed by Mr. Sarda for penalising child-marriages would be wholesome. Even in regard to Brahmins when exceptions be made with them—in regard to them if the interpretation of the word marriage be laid down as consummation—there would not be serious objection to such an amendment. The raising from 13 to 14 by amending section 375 of the Indian Penal Code would not then work up a hardship. The result will be marriage, i.e., the celebration of such rites or ceremonies as to give validity of the marriage might be fixed legally at 14 with regard to all Hindus except Brahmins and with them a distinction might be made in the interpretation of the word marriage by allowing betrothal at any time and prohibiting consummation before 14. If such a course had been adopted by Mr. Sarda much of the opposition that is now presented will have ceased. The Brahmins have been by long custom tied up to religious rites and ceremonies and the adherence to the same for many centuries has ingrained in him a tenacity to stick up to them at any sacrifice. Any measure calculated to do public good for the advancement and welfare of the society must not be pushed forward at the teeth of opposition. Mr. Sarda's Bill penalising child-marriage if pushed forward on the above lines will be a successful measure.

8. "Garbhadan" is a ceremony and is a part and parcel of the nuptials or the consummation ceremony. The word literally means presentation of an offspring. By the celebration of that ceremony the husband blesses the wife with an offspring invoking the aid of holy sages for his consummation to be fruitful.

9. No. Not less than a year should be allowed after puberty to celebrate the nuptial ceremony.

10. At the age of 16.

11. No.

12. There are cases of maternal and infantile mortality in country parts. The causes of such mortality cannot be attributed to early consummation. Early marriages are rare in rural areas. Mostly the cases of maternal and infantile mortality are due to insanitary conditions prevailing in the rural parts—impure water, crude forms of medical aid such as the barber woman taking the duty of a midwife, absence of any provision for bath or latrine, etc. The present movement towards maternity and child welfare undertaken by general associations like Local Boards and Municipalities have secured very many beneficial results in this direction.

13. As shown above the amendment of 1925 has not been appreciably felt as salutary by non-Brahmin Hindus. With the Brahmins also the raising of age to 13 in marital cases has not also been considered either as advantageous or disadvantageous as there are only very few cases coming under its purview. Any raising of age beyond 13 in marital cases will surely give room to a storm of protest from all directions as it evident with regard to Mr. Sarda's Bill. In the result the age 13 for consummation must be retained in case of marriage among Brahmin Hindus. With non-Brahmin Hindus the child-marriage itself below 14 might be penalised. With all classes the Age of Consent in the Penal Code with regard to rape might be raised from 14 to 16.

14. No. They postpone it to such a late age when they consider that the bridegroom and bride would go astray without the performance of the consummation ceremony. Such an age is between 13 and 14 among girls and 18 to 21 among boys.

15. There have been no such difficulties since cases of rape coming to light are rare.

16. There is no such necessity to fix 14 for the benefit of avoiding marginal errors. 16 might be fixed as Age of Consent of girls and we have the same age for preventing the enticement of girls from lawful guardianship, the fixing of the said age has not given us any trouble in working up that provision of law and we might have the very same experience if 16 is fixed for the Age of Consent.

17. Yes. In unmarital cases the consummation is an inroad on social matters and has to be put down with a high hand. In such cases we have to protect two different sorts of rights, (1) a stranger outraging the modesty of a girl without any right to do so, and (2) such a sacrelage being effected on young girls. With regard to marital regulations the parties are allowed consummation by rules of society. There is now an attempt only to postpone and regulate that period. People who cannot correctly understand the true principle involved in the rule violated it in the ignorance of the same. There is no harm to society or its rules excepting that there is a case of premature connection. Consequently the difference in the inflicting of punishment is absolutely necessary.

18. The procedure outlined in the Bill is sufficiently secured to protect unnecessary prosecutions.

19. The customary rules of the society and the interest which is natural to exist with the parents or guardians of those against whom offences are alleged are sufficient safeguards in cases of prosecutions.

20. The above answers do sufficiently well indicate my opinion.

21. In all societies penal statutory provisions must be fit to the then stage of the society. No true societies can command with success the same provision of penal laws. As society advances penal laws must be amended to cope with the advancement. Penal provisions in the direction of regulation of marriages is no exception to that general rule. The provisions must be in touch with the customs and usages of the people. There must be a lead and not a leap. Consequently people must be educated to imbibe the true advantages that would result from aiming to secure the object in view. Without such an education and the true realization of their benefits by the people any penal legislation aiming with the object of securing the welfare of the society would be a miserable failure.

**Written Statement, dated the 10th August 1928, of Mr. A. CHIDAMBARA NADAR, B.A., B.L., Sivakasi.**

1. I cannot say that there is any dissatisfaction in the southern part of the Madras Presidency with the state of law as to the Age of Consent nor are people generally aware of the sections 375 and 376 of the Indian Penal Code. I have not come across any prosecution for rape in the case of girls under 12 years though girls under 12 are married and cohabited.

2. I should like to make an advance on the present law. Educated people in general are beginning to understand the evil effects of early marriage, and they want a plea in some cases to break the social customs and in some cases to go against the wishes of the ladies in the family.

3. I think cases of seduction are on the increase, though criminal prosecutions in such cases are rare. In India, women give more value for their chastity than for their life, but still our social ties are being loosened owing to the modern conditions of living, which increases the social wants without adequate means to meet the same. This puts poor young girls in the easy grasp of monied rakes.

The amendment of the law made in 1925 has not succeeded in preventing or reducing cases of rape outside the marital state, or the improper seduction of girls for immoral purposes; for such cases in the case of unmarried girls affect the reputation of the girl and make it difficult for her to get a husband. The only remedy will be to make indecent overtures along with the abetment of such actions punishable under law.

4. People live in the happy ignorance of the sections 375 and 376 of the Indian Penal Code. Girls are married in their 7th or 8th year and bring forth children in their 11th or 12th year. Sections 375 and 376 are completely set aside and people think that it is within their right to contract such mar-

riages. They are ignorant that the law contemplates rape even in the case of the husband. The only effective remedy would be to introduce registration by making the parties or their guardians appear before the Registrar appointed for the purpose, in the case of castes in which early marriages are celebrated, before nuptial ceremony, and in the case of other caste people, before the marriage, and make solemn affirmation or swear in writing that the married couple are not below the age prescribed, and penalising such omissions or false declarations. The Registrar should forward a copy of it to District Superintendent of Police who in turn should sent to the police station concerned for report.

5. The attainment of puberty of girls in these parts depends upon their caste and the status of the family. Among Brahmins, girls attain their age between 10th and 13th year and among non-Brahmins between 13th and 15th year. Even among non-Brahmins, if the family is a rich one leading a luxurious life, girls attain their age between their 10th and 13th year.

6. The tendency among the non-Brahmins communities in these parts is to have the girls married as soon as they attain their age, especially within one year of the period. But even among non-Brahmins there are certain communities such as Pillaimars, Muddaliars and Chetties in which it is common to have the girls married before they attain their age. So far as my knowledge goes, in communities where the girls are married before puberty, it is usual to see girls attain their age between 10th and 13th year, and nuptials celebrated soon after it. It is very rare to see cohabitation before puberty, but still there is a tendency for such a course. Among communities it is usual to have the girls married after puberty, if a girl is married before she attains her age, because the parents are anxious to see their girls married, it always happens that the nuptials are celebrated with the marriage. Moreover, I think somehow the sexual passions of the boys and girls come into play earlier in their life and this gives room sometimes for the intercourse before puberty. I do not think that the cases contemplated in the question come to Court.

7. Except among Brahmins, I do not think that the people attribute early consummation of marriage before or at puberty to any religious injunction.

8. I have not heard of "Garbhadan" ceremony in these parts.

9. I do not consider that the attainment of age is a sufficient indication of physical maturity. I am inclined to fix the age for consummation at 15 and if not, at least two years' period should be allowed for consummation after puberty.

10. As stated in the preceding paragraph, I think, that 15 will be the proper age in which the girls would be competent to give an intelligent consent to cohabitation.

11. I have come across cases in which girls between 8 and 10 have been married before puberty and nuptial also performed. In almost all the cases, the girls have lost their health, as abortion takes place in all such cases. In some cases girls feel a sort of weakness in their body with a sort of headache throughout their life. In some cases girls suffer from disorder in the womb. In one case the child born has been permanently disabled from raising its head. There are also cases in which girls between 11 and 13 have been married after puberty but before full physical development takes place. In such cases too, abortion at the beginning is quite usual, and the girls prematurely grow old.

12. I consider early consummation of marriage and early maturity are vices, and they are the causes of high maternal and infantile mortality and materially affect the physical progress of the people.

13. I do not think that there is any public opinion either in favour of or against the extension of the Age of Consent.

14. Women in rich families generally want to have the early consummation of the marriage of their children.



15. I know one or two cases in which difficulties have been experienced in determining the age of girls under sections 375 and 376 of the Indian Penal Code. The best way to solve the difficulty is to maintain the birth register in an accurate manner with the name of the girls.

16. I do not think that the difficulty or margin of error in determining the age can be reduced, if the Age of Consent is raised. Doctors always differ in their opinion as to the determination of the age. The best way is to keep the birth register accurate in addition to the expert advice of the doctors.

17. I should like to separate extra-marital and marital offences in the matter of punishment. I think in the case of marital offence imprisonment extending to one year or fine will be enough.

18. I think there should be difference in the procedure of trials for offences within and without marital state. I should like to have the offences within marital state to be tried under the procedure prescribed for summary trials in the Criminal Procedure Code, by any Magistrate of first class and in the case of Presidency towns by the Presidency Magistrates. With regard to other cases, it will be better if they are tried under camera, as such cases affect the reputation of the girl or woman concerned. In the case of offences within marital state, I should like to have an appeal provided for, to the Court of Sessions.

19. The safeguards I can suggest against collusion to protect the offender, etc., are those I have given in answer to question No. 4—the appointment of Registrar for Marriages or to put the present mode of registering births and deaths on a better footing and to have the registration of marriages coupled with it.

20. I do not think that any public opinion can be easily created in a country like ours, ridden with customs, ignorance and superstition, unless there are penal legislation and legislation fixing the minimum age of marriage. I will welcome both sorts of legislation.

21. I do not place much faith on the progress of social reform by means of education and social propaganda. Some advancement may be made but it will be slow. Perhaps it may take half-a-century to achieve what we desire. By penal law, the object may be attained completely within a few years.

**Written Statement, dated the 9th August 1928, of Mahamahopadhyaya Sastracharya SIYA DANDAPANISWAMI DIKSHITAR, Ayl., Secretary, Adwaita Sabha, Chidambaram.**

1. There is dissatisfaction in so far as it penalises a husband having intercourse with his wife who has attained womanhood. In marital cases no age-limit should be fixed; but cohabitation before the attainment of puberty should be strictly prohibited.

2. (i) I am for altering the law. The law as it now is, prevents the lawful intercourse with mutual consent and in natural health by husband and wife as it is natural for women to have desires for intercourse after attaining age and as illicit satisfaction might arise if the natural desire is baulked.

3. Occasional cases of rape there are. Raising the age or lowering it will not remedy affairs. To make the law effective heavy punishment must be given to the offenders.

4. The consummation of marriage has been in all cases postponed to an age later than 13. Public opinion is also in favour of consummation as early after puberty as possible. Betrothals or vivahas are as enjoined by the Shastras, done a little before puberty and consummation only after puberty.

5. The age of puberty varies between 13 and 16, the exact age depending on the nourishment of the body and the mother's age of puberty. It does not differ among castes and communities.



6. (1) No.

(2) Yes, and the Shastras ordain it.

(3) The question does not arise as girls attain age mostly after 13 years. Such cases do not arise and therefore do not come to Court.

7. There is not a single case of consummation before puberty. Religion prohibits it. Consummation may be as early after puberty as possible. The husband must take care not to make her go astray for want of intercourse in proper time. Every man should have his daughter married at all events before the age of puberty.

8. Garbhadan is usually performed in this country. It does not coincide with consummation of marriage. It is performed only after puberty and as early after as possible.

9. Yes. Physical maturity may come after in some cases. The physical nature of the body is not a factor in the strength or weakness of the progeny. Strong parents bring forth weak children. Weak parents of young age bring forth healthy children. The longevity of the child is not conditioned by the state of the body of the parents.

10. Usually soon after puberty. In a few cases a few years after and in a very few cases not at all throughout life.

11. No such cases.

12. No.

13. Fixing the age is bad. The same may be attempted in extra-marital cases.

14. Women favour betrothal or Vivaha before puberty and consummation soon after puberty.

15. It is difficult to determine the age of a girl by a look at her body. The attempt will lend us into an unending series of perplexities. To remove these difficulties, I would fix no age.

16. The question does not arise.

17. Cohabitation before puberty shall be penalised whether marital or non-marital. Cohabitation cases after puberty must be divided into the two classes and non-marital cases alone are offences.

20. Legislation fixing consummation only after puberty will be more effective. The attempt to fix the minimum age for marriage is unwise.

21. Legislation is no use. No social reform in this direction is necessary as things are what they should be.

**Written Statement, dated the 10th August 1928, of M. R. Ry. Rao Bahadur Y. A. YANDAYAR, Tanjore.**

1. I am not prepared to say that there is dissatisfaction with the state of law as to the Age of Consent as contained in sections 375 and 376, Indian Penal Code.

2. (1) The existing law as to the Age of Consent may be retained as it has given rise to no complaint. The mass of people have not felt any necessity at all for an advance in the present law. There has been little or no change in the conditions since the legislation was introduced in 1925 and I believe that the agitation that is now set up for an advance in the age limit is due to the efforts of social reformers who are imbued with western ideals and wish to introduce western practices under the impression that what is good for the West is good for the East. Even if the Age of Consent should be raised as proposed, I am afraid it will have little or no effect on the people as they will not abandon their old habits and institutions. On the other hand, it will give rise to evils of a different kind to those which the proposed amendment is intended to cure. If, nevertheless, a change is

resolved upon as necessary, I would suggest exclusion from it persons or classes of persons who, according to their custom or religious tenets, have been conforming to certain restrictions.

3. I cannot say that crimes of seduction or rape are frequent in this part of the country. I am not prepared to concede the assumption involved in sentence 2 of this query that there had been cases of rape outside the marital state or improper seduction for immoral purposes in any large degree to justify the legislative enactment of 1925; nor do such conditions exist now. In this view of the matter the last question in this query requires no answer.

4. (1)—(2) The bulk of the people are ignorant of the existing penal provisions regarding the Age of Consent and there is no necessity for enactment of any provision to prevent cohabitation before 13 years with husbands, as such cases seldom or never arise in this part of the country. Consequently, I do not see the necessity for postponement of consummation of marriage either by stimulating public opinion or by enactment.

(3) For aught I know, there has been a change in public opinion in the direction of putting off marriages to a later age, but this is due partly to education and propaganda and partly to the increasing poverty of the people. Early marriages take place generally where the parents of girls are able to incur the necessary expenditure on them, but the bulk of the people being poverty-stricken the parent is of necessity obliged to defer the marriage till he could afford the means. I may add that the physical condition of boys and girls to some extent determines the age of marriage. Whatever be the age at which marriages are performed, consummation does not generally take place before the age of 13. So there seems to be no necessity for legislation for putting off marriages after the 13th year.

5. Usually the age at which girls in this part of the country attain puberty is between 13 and 15. It does differ in different castes, communities or classes according to the physique they develop under the diet which forms their ailment and to a slight extent on heredity. Puberty in my opinion is accelerated where the food taken consists of stimulants such as coffee and the like and artificial foods and there is luxury entailing no occupation or exertion. Where the food is of the simplest kind, natural and wholesome and could be had in plenty, puberty takes place at the normal age of 14 or 15. I may observe that in the higher classes girls attain puberty at a comparatively early age.

6. (2) Cohabitation soon after puberty is becoming rarer and rarer owing to the operation of causes specified in my answer to query 4 (3) *supra*.

(3) Cohabitation before the girl completes 13 years must be very rare as girls do not generally attain puberty before the age of 13 and some time elapses before the ceremony attendant on consummation takes place. I have not known of cases of the kind contemplated in query 6 coming before courts.

7. I am not prepared to say that there is early consummation of marriage before puberty. In exceptional cases it does take place soon after puberty amongst Brahmins, but it is due to religious injunction in the shastras which enjoins consummation within 16 days from the date of attaining puberty and the injunction carries with it penalty for its breach. (*Vide* English translation of Parasara Samhita, Volume 2, by Manmatha Nath Dutt, last paragraph at page 554 and page 89 of the English translation of Manu Samhita by the same author, Slokan 45.) The motive underlying early consummation of marriage is to secure chastity and good progeny.

8. "Gaona" or "Garbhadan" ceremony coincides with the consummation of marriage, but it is always performed after the attainment of puberty, the time varying with the means of the individual parent and the physical condition of the couple.

9. Generally the attainment of puberty may be taken as a sufficient indication of physical maturity in Hindu households which consist mostly of

joint undivided families where there is no scope for unrestrained sexual indulgence to the prejudice of the health of the couple. But note is taken of the physical condition of the couple in fixing the date of consummation.

10. Generally Hindu girls are intelligent enough but the degree of intelligence varies with the class or community to which they belong, the education they have received and the environments in which they live and grow.

11. No.

12. No. The high maternal and infantile mortality is in my opinion due in a large measure to the increasing poverty of the people who have not food enough to eat, much less food of a nourishing kind. The physique which the infant develops depends more on the nourishment it receives during the period of its growth rather than on what it inherits. In fact, instances are not wanting of puny children developing into hardy athletes under proper care and nourishment. Famished mothers have not enough milk for nursing and artificial foods are responsible for a large number of early deaths amongst infants.

13. The amendment in legislation in regard to the Age of Consent in 1925 has practically had no effect on the mass of the people and in my opinion the law enacted in 1925 may be allowed to remain, not because existing conditions justify it but because it has been barren of results and there is no harm in retaining it.

14. Generally mothers act in accordance with shastras and are unwilling to retain girls after puberty with them. They are for allowing them to join their husbands who are allowed scope only for a moderate indulgence. This they do avoid the risk of girls losing chastity under temptation.

15. As an on-looker I can only say that even doctors seem to find it difficult to determine the age of girls in connection with offences under sections 375 and 376 when they come before courts. This is a matter which concerns medical men and I am unable to suggest measures to remove or minimise the difficulty in fixing the age.

16. I think the difficulty would still remain even where the Age of Consent is raised to 14 years or more.

17. Marriage being a religious sacrament with Hindus in general and Brahmans in particular, I am not in favour of legislation which will convert marital acts into offences and penalise them. There is absolutely no objection, however, to extra-marital offences being visited with as severe a punishment as possible as the interests of society which sets a high value on chastity require deterrent penalties.

18. In the light of my answer to query 17 this query requires no answer.

19. My humble opinion regarding this is that whatever be the age fixed, the number of cases in which prosecution would be instituted against the offender will be extremely small. This should obviously be so in view of the fact that ties by marriage amongst Hindus are indissoluble and the happiness of the couple depends entirely upon the good will of each and where such cases come before courts they will be due to ill will, spite or extortion. As there can be no proper safeguards against improper prosecutions, there is little use in attempting legislation in social matters like this.

20. I am not in favour of any penal legislation fixing a higher Age of Consent for marital cases or for fixing the minimum age for marriage. The one would be as bad as the other, as the longer marriages or consummations are delayed, the greater the scope for offences, marital or extra-marital, being committed on the sly. For a choice, I should prefer fixing a higher Age of Consent to legislation fixing the age of marriage as the latter would go against the injunction of the shastras and I am sure this will be in consonance with public opinion as the former cannot strictly be said to contravene any provision in the shastras. If the minimum age is to be

fixed at all it can only be at an age when puberty would be an impossibility, say 10—so far as Brahmins are concerned.

21. I have little faith in penal laws for effecting changes in social matters, much less in habits and institutions based on religious injunction unless they are subversive of all morality or involve risks endangering health or life. I would rather trust to progress of social reform by means of education and social propaganda than to legislation.

**Written Statement, dated the 3rd September 1928, of Mr. A. PERIA-NAYAKAM, B.A., President, Bench Court, Srivilliputtur.**

1. There is no dissatisfaction.
2. It may be retained as it is, in order to prevent undue dissatisfaction with Government.
3. Cases of seduction are very rare in my part of the country.
4. Things are going on, as usual, in spite of the amendment.
5. Where people lead a life of luxury, the age of puberty is between 12—14; but among hard working classes it varies from 15—18.
6. Cohabitation is common only after puberty. I have never heard of any case going to court.
7. Yes. I attribute it to religious injunction. The Shastras are the authority. The punishment is that such girls should not be married.
8. Such ceremonies are unknown here.
9. Where girls are delicately brought up and the age of puberty is consequently low, they may wait for three years for the consummation of the marriage, but in the case of hard working classes marriage may be consummated immediately after puberty is attained. The Brahmins are quite conscious that marriage at puberty or, before has got some physical disadvantages which are more than compensated by this being in harmony with the moral Government of the Universe which inflicts the penalty of extinction of the race or of the family for its breach; because late marriages make the mind wander and in a good many cases end in dissipation which is directly opposed to the moral Government of the world. For instance, Sodom and Gomerrah of old and Germany of modern times.
10. The ages varies according to different temperaments.
11. No, I have not heard of any such cases.
14. Yes.
19. Prosecution must not be thought of because the majority of the Brahmins would rather prefer going into jail than offending the Shastras.
20. Fixing the minimum age will be more effective. This will be more popular.
21. I should like to depend on the progress of social reform by means of education and social propaganda. But, if penal legislation is made to assume the form of disqualifying the parents from holding posts under Government or membership in various councils, and boards, a most speedy advance in reform can certainly be expected.

**Written Statement, dated the 10th August 1928, of Mr. V. SRINIVASA IYER, M.A., B.L., Yakkil, Negapatam.**

1. There is no dissatisfaction with the state of law as to the Age of Consent, as it exists at present. If there is any dissatisfaction Lawyers while conducting cases under those sections would have felt the difficulty

and these difficulties would have been ventilated in Judgments. For example Act X of 1891 was passed as the result of the case reported in 18 Cal. 49 where a girl of 11 died as a result of injuries sustained in cohabitation. But now I am unable to lay hands on any such case. Even according to the objects and reasons of the bill it is introduced simply to improve the general well-being of the society.

2. According to the Law as it is at present the consent of a girl above 14 is a valid defence for an offence of rape. This has reference only to extra-marital offences. In such cases the victim may be married or unmarried. In both cases it is desirable that the Age of Consent is raised as high as possible. The persons who will be chiefly affected are the Dancing girls and some other sects who do not marry the girls till late and at the same time do not provide sufficient safeguards to protect them from molestation by unscrupulous persons. In this connection people in these parts may be divided into 3 classes. Brahmins and Non-Brahmins who follow them in marriage and other customs. These people adopt the system of ante-puberty marriage. The second class consisting of middle class non-Brahmins adopt post-puberty marriage customs. These people do not allow their girls after they attain puberty to get out of the houses till they are married. The third class of people are low class people who do allow the grown up girls to go out freely and nomads such as Koravas. In fact out of 4 a dozen cases which came up before the court 3 were from the last class of people and protection to them is necessary and they will be greatly benefitted if the Age of Consent is raised to 16. Among the first two classes the chances for the offence are minimised.

3. As stated above there have been about 4 a dozen cases within the last 5 or 6 years. This I consider to be a high figure and the amendment of 1925 has not in any way appreciably reduced case of rape or immoral seduction for immoral purposes. I believe the raising of the Age of Consent to 16 would affect for the better the state of affairs so far as the latter class of offences are concerned.

4. Generally puberty takes place about the 13th to 15th year and the effect of the amendment is not appreciable. The amendment has not stimulated public opinion to such an extent as Sarda's and Muthulakshmi's Bills. The present Bill's object is to only prevent issue. But the object of the other Bills is amelioration of society. In that case the opinion of majority of people is in favour of fixing the age of consummation at 15 provided there are sufficient safeguards against vexatious prosecution and the religious and conscientious scruples of the people are not interfered with. Inconformity with those bills the age of consent within the marital state can be raised to 15.

5. The usual age at which girls attain puberty is about 13th or 14th year amongst Brahmins and 14-16 amongst non-Brahmins.

6. I have not come across cases of consummation before puberty. But there are cases of consummation soon after the girl attains puberty. Cases of consummation before the girl completes the 13th year are exceptions and they are so few and far between that they can be altogether brushed aside. These class of cases do not come to court.

7. The practice of consummation soon after marriage is attributed by those versed in the Shastras to shastric injunction. The only sanction prescribed therein is some curse whereby those responsible for the postponement will go to hell.

8. Garbhadana ceremony is performed after puberty and at the same time as consummation.

9. I consider 16 years will be the proper age at which consummation can be justified. But I shall be bound by expert medical opinion.

10. A girl of 15 or 16 would be able to give intelligent consent to cohabitation. But considering the system of present education prevailing among

the generality of women I doubt whether any woman of any age can give consent to cohabitation after realising the consequences.

11. I know of certain cases in which cohabitation after puberty but before the girl attaining the full development resulted in injury to herself and to the progeny. In several cases the girls were unable to bear the travails of child birth and died.

12. Generally I consider early consummation and early maternity have got an adverse influence upon the progress and the general well being of the nation.

13. Sarda's Bill and Muthulakshmi's Bill have created public opinion in favour of extension of Age of Consent and there can be no serious opposition in raising it in extra-marital cases to 15 or 16.

14. I cannot say they do favour early consummation of marriage.

15. Difficulties have been experienced in all most all cases in determination of age where girls happen to be on the border line. The difficulty is greater in cases of nomads such as Korava where Birth certificate cannot be traced and medical evidence in such cases cannot be of much use.

16. The age 14 itself being in the border line fixing it at 14 would be of no help. But if the Age of Consent is raised to 16 it will reduce the difficulties, to a great extent.

17. Extra-marital offences should be separated from marital offences and in the latter case the punishment should be fine only. The husband and wife should live together afterwards and the punishment should not create a rancorous spirit in the mind of the husband. In extra-marital cases the present punishment may be retained.

18. In marital offences, the procedure should be as in summons cases and needless publicity ought not to be given.

19. Under Section 376 (a) in Col. 6 instead of non-compoundable, it may be (compoundable).

In Col. 7 instead of imprisonment and fine it may be "fine only."

In the last Col. instead of the Court of Sessions and 1st Class Magistrate it may be court of Sessions alone.

For the first 2 changes my reasons have already been given above and for the last, I cannot trust Magistrates of 1st Class who as a class are not trained in law. And if at all they should try, the conduct of the cases should not be in the hands of the Police.

20. I consider legislation fixing the higher Age of Consent is more in consonance of the public opinion than fixing a minimum age for marriage. Probably a minimum age 13 for betrothal with the Age of Consent at 15 would meet with a large amount of public support.

21. Both are necessary to a certain extent. There should be judicious compromise between the two.

**Written Statement, dated the 14th September 1928, of Dr. (Miss) M. GRAY JONES, M.B., B.S., St. Martin's Hospital, S. P. G., Ramnad, South India.**

1. In four years work in hospital—1 in Madras and 3 here, I have never heard any reference at all to the Age of Consent.

2. (1) Better to retain the law as it is than to have no law on the subject as it officially discountenances the offence.

(2) But in my opinion, age should be advanced, as children of 14 are in few cases capable of intelligent consent.

3. Probably not. In three years here I have not had to deal with a single case of direct rape, but there is a great deal of unlawful promiscuous intercourse, seen by the pumber of women and young girls who come to hospital in the hope of obtaining termination of unlawful pregnancy. This is not confined to any one community. I have heard of acts of rape, but not of any case being brought to law.

4. I do not think any Act has influenced public opinion here. The people are mostly illiterate, and custom determines such matters.

5. 12 to 14. Brahmin girls probably rather sooner than others, Christian girls in boarding schools certainly later on the whole.

6. (a) Before puberty. None seen.

(b) All Brahmins and certain other high caste girls go at once to their husbands on attaining puberty.

(c) If menstruation occurs before 13, the abovementioned girls will cohabit at once.

I have heard of none being brought to court.

7. To social custom which is impossible to distinguish from religious injunction. From the anxiety expressed at any proposal to postpone consummation in such cases, there is probably some penalty, but it may be no more than social loss of prestige. I do not know.

8. I have enquired repeatedly after this ceremony by name, and on one has recognised either of the names given; I have never heard of it before. There are ceremonies in many castes when menstruation begins, and some of them certainly have reference to fertility.

9. No. Many girls of 18 and some of 17 are developed enough to bear children without prejudice to mother or child, but the younger ones are nearly all damaged in some way if the child is of normal size. If it is not, it is frequently a weakling. Moreover, when the mother herself is a child, her maternal instincts are often feebly developed, and the child suffers further. If a rule must be made, I should say none to bear children before 18, therefore no consummation of marriage before 17. Even thus many will still be under-developed.

10. Brahmin children here, certainly in some cases, are directly initiated into these matters at some ceremony when they are aged about 8, and these could give intelligent consent. There are girls in boarding schools entirely ignorant of the consequences involved in marriage and these can become pregnant without knowing the possible consequences of their act.

11. None seen before puberty, but after puberty many. Girls of 16, 17, 18 with fistulæ, prolapse, adhesions and scarring preventing any further possibility of children are by no means rare. In such cases the child is more often than not stillborn. This problem of course is intimately mixed with that of providing suitably trained midwives. Some of these consequences might be prevented or remedied if skilled help was available.

12. As stated in 11, high infantile mortality results from difficult labour and undeveloped mothers, and conditions such as those enumerated in 11 of course may be a cause of death also.

Moreover, if girls become mothers while yet children their education stops, not merely their book-learning but their openness to reason and argument. And if their time is taken up with early and repeated child-bearing, their culture and enlightenment is unlikely to proceed afterwards, especially if they have the to-be-expected ill health also.

13. No evidence seen.

14. If early consummation is the custom, the women are harder to move from it than the men, presumably owing to the uneducated condition of the former, and even with educated people whose social obligations do not insist on early marriage, yet they will rush a child into marriage to catch a wealthy bridegroom or one of the right degree of relationship.

15. I have met with no such offences, but the women of these parts are frequently ignorant of their children's ages and more so of their own. They will even go so far as to tell me that their own age is 20, but their daughter's 24. "She has 4 children" and notice no discrepancy. Efficient birth registration (and the increased appreciation of the meaning of figures by elementary education) will be the only certain method of arriving at the age of a girl in these parts for many years to come.

16. No difference.

17. Certainly I should separate them. Extra-marital offences will be always with us to some extent, by the act of mental defectives and especially moral imbeciles and perverts, but marital offences will cease as soon as public opinion is educated enough to consider them wrong.

Punishment is not a matter on which I am competent to give an opinion, but I would give no option of fine in either class.

18-19. Don't know enough to answer.

20. Marriage being public and having visible external signs accompanying it, there is some use in fixing a minimum age of marriage, by law. Rape within the marital state does not necessarily produce any signs whatever visible to the world at large, and collusion is inevitably present, wherefore legislation, except as an expression of the public conscience, seems to me useless.

21. Social reform, by education and by this I mean chiefly female education, highly educated men who will talk glibly of the need for reform in this and that, in a place like this where female education is far behind, slip back to the level of the women of the household in matters concerning marriage, and I think genuinely have great difficulty in getting any enlightened course of action carried out by them.

### **Written Statement, dated the 26th August 1928, of Mr. S. SUBRAMANIA MOOPANAR, M.L.C., Chintamani, Trichinopoly.**

1. I am dissatisfied with the state of the law as to the Age of Consent as contained in sections 375 and 376 and 376A Indian Penal Code.

As the married couple at present allowed at every liberty in spite of attaining their age of puberty, there is every possibility of their committing the crime according to sections 375, 376. The male who is innocent but offensive is troubled with heavy punishments. Therefore it is not advisable to punish a criminal who had legally married the girl.

2. The punishment for a stranger is befitting.

3. Nil.

4. No amendment is necessary if the girl is married at the proper age

5. Backward communities toil all day long for their life and hence their age of puberty is 13 to 14. High class people attain their age of puberty between 12 and 13.

6. Generally the girls attain puberty between 12 and 13.

(2) Cohabitation is common before puberty in cases of poor and working classes of people.

(3) Cohabitation is common soon after puberty everywhere before they complete 13 years.

(4) Cohabitation is not common before the girl complete 13 years. No criminal cases of above nature are prevalent.

7. Except Brahmans and Koamuth's (Vaisyas) the others are at full liberty to celebrate their marriage ceremonies at any age they like. The penalty for its breach quoted in Shastras is inconsistent.



8. No such ceremony is celebrated here.
9. According to my opinion as the girls do not attain physical development immediately after the attainment of puberty it is advisable to get them married one or two years after their maturity. This would be a safer thing.
10. 15 years.
11. We belong to the backward community and it is our custom to get our girls married after 15 years. We do not come across with any case of a girl injured by cohabitation.
12. I consider early consummation and early maternity is responsible for high maternal and infantile mortality and even affecting vitally both intellectual and physical progress of the people.
13. It depends upon their own circumstances.
14. Women in our parts favour early consummation and they even give their consent that their procedure is insensible.
15. No.
16. Yes.
17. Not necessary.
18. Yes. I think that there ought to be a difference in the procedure of trials for offences within or without the marital state, slight punishment to the former and heavy one to the latter.
19. It is enough if the offender is served with summons and the section must be compoundable.
20. I consider that penal legislation fixing a higher Age of Consent for marital cases which is likely to be more effective, though minimum age of marriage would be in consonance in public opinion in my parts.
21. No further improvement necessary to enlighten the public.

**Written Statement, dated the 13th August 1928, of Miss G. SAMUEL, Lady Apothecary, Women and Children Dispensary, Tirupapuliyur.**

As far as my experience goes I find the majority of the public people are indifferent with the state of the law, etc.

2. (2) In these parts, the health and strength of the people are far from satisfactory—making an advance on the present law will be one of the means of improving the physical development and so health of the people.

4. The amendment of 1925 raising the Age of Consent within the marital state to 13 years has not been effective in protecting the married girls against cohabitation with husbands, because when married, the girls are the husbands' property and the girls generally have no voice in their wishes or rights but coolly submit to the will and pleasure of the man and this crime is not brought to the light. Education, social reform to make the girls understand their own rights and privileges.

5. 12 years, the usual age of the girls attaining puberty in this part of the country. Among the working classes girls go on upto 15 years and a few cases attain puberty after 16 years. Among the Brahmins and high class Indian, girls attain puberty even earlier than 12.

6. Cohabitation is common soon after puberty with no respect to the age of the girl. I do not think people realise the seriousness of the matter to bring it to the court.

7. Not versed in Hindu religious injunctions.

8. Garbhadan is always performed in this part of the country. It is the same as consummation of marriage. It is performed soon after puberty,

depends upon the will and pleasure and need of the husband's party with practically no respect for the physical fitness of the girl.

9. I do not consider the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. I would say that a girl's physical development may be considered fit for consummation only after 18 years.

10. The girl's competency to give an intelligent consent to cohabitation with a due realisation of consequences depends on various circumstances. Among the educated Indian Christian community the girls are not able to realise the consequence of cohabitation even as far up to 20 years. On the contrary, among the Brahmins and the high class non-Brahmin communities the girls have a knowledge of such things as 'monthly periods', 'consummation of marriage', 'pregnancy' and 'confinement or labour' because there is no privacy and delicacy of feeling. It depends upon the environments of the girl.

11. Yes.\* I have come across many cases. Some girls come for treatment for amenorrhoea. They say they were alright till the consummation after which monthly course stopped completely or became very scanty. Here, one will find the girl entered into family life after 2 or 3 courses when the uterus was not fully developed and fit for its function. Again some girls complain of chest pain since consummation and it will be found the general system was not mature and so the heart suffering. Again many girls come for treatment for general weakness with a fit-for-nothing look. Here it will be found the nervous system unable to stand the strain of family life. During labour these girls of 14 years and about, have a tedious and difficult labour generally ending in forceps delivery and injury to the parts, making them weak and debilitated much longer than necessary and while they are still in the invalid state they become pregnant again and only misery is added to their life. How can healthy and strong children be expected of these mothers. It is no wonder very many children are rickets.

12. The reasons give in 11 account for the high maternal and infantile mortality. I am of opinion that the vitality of the children born of the immature mothers is in a very low level.

14. The women in general are not in favour of early consummation of marriage for their daughters. But it is doubtful if they will openly declare it.

15. Difficulties are experienced in determining the age of the girls, etc., compulsory registration of births may be given effect to in rural parts.

16. To a great extent.

18. I leave these 3 questions to the legal authorities.

19. To decide.

20. I think legislation fixing the minimum age of marriage is likely to be more effective because when once married there is no option of consent for the girls.

21. The penal law must be strengthened to secure the object in view at present. Also progress of social reform by means of education and propaganda carried on for future use.

**Written Statement of Mr. W. P. A. RATNASAMY NADAR, Coffee, Cardamom and Rubber Planters, Pattivirampatti, Madura District.**

1. There was not any dissatisfaction so far as he knew regarding the Age of Consent among the non-Brahmin communities and even among the Brahmins, the well educated are in favour of the Age of Consent bill.

2. (1) It prevents for the most part pre-puberty marriages.

(b) It facilitates physical and intellectual developments of girls.

(c) It creates better relations between the husband and wife when they are married.

(2) Present law is just sufficient to meet the tendency towards early marriages or child marriages as they are called.

8. Cases are not many. They are few and are far between. But even if there be cases they are not brought to light. People at large are quite ignorant of the law relating to these crimes.

4. It is not knowledge of law but education of girls has something to do with this.

(1) Consummation of marriage is not postponed if the girl had attained her puberty.

(2) This is desirable.

(3) By an enforcement of the law.

5. The usual age at which girls attain puberty is between 14 and 16. In some cases they attain their puberty in their 13th year. This depends on the social position of girls, their feeding, etc.

6. (1) Seldom.

(2) Very often. Yes.

(3) If the girl had attained her puberty as indicated in sub-division 3, to question 5.

As people are ignorant of the law no case comes into court.

7. There is no religious sanction for early consummation as far as I know. None in my opinion.

8. This ceremony is performed by some Hindus. It does not coincide with marriage. It is anterior to the consummation of marriage, if the girl is not married. It is subsequent to the marriage as in the case of Brahmin girls. Among the potters caste it is always subsequent a few months after the married girls had attained their puberty.

9. Certainly not. A period of at least two years should elapse after the girl had attained her puberty for the consummation of scope. Marriage—in this case there is much for her physical development. The health of the girl and that of her progeny cannot be impaired.

10. At 15 or at 16.

11. Prematured death. Weak children both in mind and body. Instances of prematured death among married girls are very many. To quote one instance I know of a girl who was married in her 13th year. She was weak soon after her marriage. She began to conceive as the month of her delivery approached. She could not bear the strain of the child-birth. In spite of all medical help rendered she expired. The child did not continue long. It also died a week later.

12. I do consider that early maternity is responsible for infantile mortality. It affects the longevity of human life and dwarfs the race as a whole in body as well as in mind.

13. The public opinion is in favour of an extension of the Age of Consent in all possible cases. Even among the Brahmins the opinion is in favour of the extension of the Age of Consent.

14. Women in this part of the country are illiterate. In spite of their ignorance I believe they are not in favour of early consummation of marriages.

15. In all cases the Horoscopes may be required to be produced or a sworn statement from the parent or guardian might be accepted as to correct age of girl.

16. Not in the least.

17—18. It is desirable to differentiate offences within marital state and outside it and prescribing different procedure and different punishment. Separate laws for fixing a higher Age of Consent and for prescribing the minimum age of marriage may be advocated.

19. Reduction of crimes is the only means by an enforcement of law.

20. *Vide* answer to question 18.

21. The mere strengthening of the penal would not be sufficient and that Education and Social propaganda would have to help greatly in impressing the people at large on this vital question.

**Written Statement, dated the 9th August 1928, of Mr. M. L. NARAYANA IYER, B.A., B.L., Government Pleader, Melur, Madura District (Madras).**

1. No.

2. I am rather in favour of retaining the law as it is at present than to make any advance on it. The present age-limit itself is an advance on the old law which has stood for a considerable length of time. It is rather too soon to make another advance upon it. Further, owing to the climatic condition of our country and its effect upon the people, our youths and girls attain their full age of discretion at a very early age, (earlier than in other countries like England, etc.), and become capable of understanding what is expected of them by way of self-respect and social position. A girl of fourteen or even thirteen cannot be considered an infant incapable of intelligence and understanding in our country as it is said to be the case in England and similar countries. The answers to the other questions may throw more light on this point. I cannot dilate upon this in a written statement like the present one.

3. In my part of the country such crimes are very rare. I cannot, therefore, say whether the amendment of 1925 has had any effect.

4. No perceptible change has been seen since the amendment of 1925 in any of the three directions. Probably it is too soon to be obvious.

I confess I am unable at present (and at such a short notice) to suggest any steps except simply to wait and see.

5. In my part of the country, girls attain puberty from the age of 13 to 15. I am not sure, but I have heard it said that among the Brahmins the girls attain puberty a little earlier than among the Sudras.

6. Cohabitation is not common among any class of people before puberty. Among the Brahmin community, where there is always the pre-puberty marriage, what is called the consummation ceremony *Garbhadan* occurs soon after puberty ranging from about 4 months to 2 years after puberty normally. Some Vysia communities also follow the Brahmins in this respect. But among the Sudras, who generally have the post-puberty marriage, the consummation occurs immediately after the marriage which may be roughly put to happen from one to three years after puberty.

Cohabitation before the girl completes 13 years is rather very rare, and even if there be any, certainly no one has come to court.

I may add as a general statement that to avoid public scandal no case under the penal sections generally comes to court in higher societies, and even in the lower circles people are loath to come to courts unless they are driven to by other motives. The tendency is always to hush up.

7. I do not attribute the practice of the early consummation before or at puberty, wherever it exists, to religious injunction. But consummation a short time after puberty, say 4, 5, or 6 months, may probably be attributed to over-carefulness for morality.

8. Garbhādan ceremony is always performed among Brahmias and some Vysias. Garbhādan is in these parts the consummation ceremony itself. (Vide answer to question No. 6).

9. From time immemorial, attainment of 'puberty has been considered to be a sufficient indication of physical maturity to justify consummation of marriage. I see no reason to differ from this view. But I would like to allow a period of six months after puberty for full development to qualify a girl for consummation; more than that is unnecessary and may possibly prove harmful to morality in some cases. At the present state of our society there is neither scope nor inclination for the general run of girls among all classes to indulge in literary pursuits, tennis, badminton, or channel swimming, or any other similar pursuits to detract them from sexual thoughts that are said to be usual after puberty. Conservative and cynical as this view may be considered, one cannot in practical life shut one's eyes on this side of the picture also. In any proposed legislation it is to be borne in mind that we are as much responsible for safeguarding the morality of our girls as for their health and their progeny. (This may be considered when dealing with the child marriage bill). I would therefore be rather against the new section 376-A and leave the matter entirely to the progress and good sense of the society instead of coercive legislation.

10. I would fix the age at not more than 14. (Vide answer to question No. 2.)

11. No.

12. Mostly not.

13. No.

14. They do.

15. I have heard of cases, but I am not personally aware of them. I think, now that the registration of the date of birth has been made compulsory even in villages by legislature and the Government, no such difficulty will hereafter arise in fixing the age.

16. No.

17. Yes. They should be classed as different offences. The punishment for extra-marital cases may remain as it is. But for marital cases I think it should be very harsh. I would suggest 3 grades of punishment for marital cases:—

(i) When the girl is under 12—Same punishment as in extra-marital

(ii) When the girl is above 12 and before puberty (whatever the age—some girls attain puberty between 12 and 13)—Simple imprisonment for 2 years, fine, or both.

(iii) When the girl is under 13 but has attained puberty—Fine alone.

I have already said that I am not in favour of the new section 376-A.

18—19. I think that for marital cases the sanction of the District Magistrate is a sufficient safeguard against improper prosecution. I am not at present able to suggest any definite steps for the other difficulties. (I received the questionnaire only last evening, and the time given to me is very short.)

20—21. I am inclined to think that legislation in this line is unnecessary at present and I would rather rely on the progress of society by means of education and social propaganda. But if it comes to legislation I would venture to state that neither of the two alternatives would be in consonance with public opinion in my part of the country as both of them would be coercive and not permissive in their nature.

**Written Statement, dated the 8th August 1928, of Mir ZYNUDDIN, LL.B., District and Sessions Judge of East Tanjore, Nagapatam.**

1. It is difficult to say whether there is a general dissatisfaction or not, but I am inclined to think that educated persons feel that the Age of Consent may be raised.

2. An advancement on the present law is desirable. Considering the peculiar customs of the various communities in India and the general physique of the girls here, the Age of Consent may be raised to 16. As a rule an Indian girl for want of proper education and knowledge of the affairs of the world cannot be deemed to have sufficient strength of will or capacity to understand the consequences of her acts even at the age of 14; and consent given by her at that age may not in all cases be regarded as one based upon sound judgment.

3. Of late some cases have come before me; but I do not think that the amendment had any direct effect of preventing the crime. In cases of rape, people are averse to lay complaints or to go to Court for fear of losing their social prestige. An effective measure would be to raise the Age of Consent to 16.

4. (1—2) Yes.

(3) Not quite. What I have stated in answer to question 3 would apply here also.

5. Between 12 to 14. I don't think there is any appreciable difference in the different castes and communities.

6. (1) No.

(2) There may be some cases.

(3) May be in some cases but such cases do not generally come to Court. I have not had any such case coming before me.

7. Consummation of marriage as a rule does not take place before puberty in this part of the country; but there may be stray cases of consummation at puberty. There is no religious sanction or authority on this point.

8. *Garbhadan* ceremony is performed on the date of consummation of marriage and not on any day anterior to it. It is only performed after the attainment of puberty at the time of consummation and not afterwards.

9. I do not at all consider that the attainment of puberty is sufficient indication of physical maturity to justify consummation of marriage. I think proper age for consummation of marriage is 16.

10. 16 years. For reason see answer to question (2).

11. I am not in a position to give details of injury sustained in cases of early consummation; but early consummation of marriage followed by child-birth has the tendency of deteriorating the physique of the mother and her progeny in consequence. There are many cases where young mothers have fallen a prey to tuberculosis and other kindred diseases.

12. Yes.

13. The educated classes certainly feel that the Age of Consent should be raised but there might be some orthodox sections of the communities who would not favour the interference of the State by means of legislation in social matters but in course of time this slight opposition may not be perceptible.

14. Educated women are not in favour of early consummation of marriage.

15. No difficulty is experienced. We generally get the help of medical men on this point.

16. If the Age of Consent is raised to 16, there won't be any difficulty at all.

17. There should be a distinction between marital and extra-marital offences. In the former case the punishment should be only fine and not imprisonment, because imprisonment in such cases may have the effect of losing social caste and prevent a happy continuance of the marriage life after release.

18. The procedure in martial cases may be as in summons cases.

19. The present safeguards are adequate.

20. Penal legislation fixing a higher Age of Consent at 16 for marital cases is likely to be more effective than legislation fixing the minimum age of marriage. There may be no objection to the former, whereas there may be some objection to the fixing of the marriage age, because especially among the Brahmins of South India, marriage takes place before the girl attains puberty though consummation is usually deferred.

21. I would rely on the strengthening of the penal law which would have the effect of reforming the social customs and manners of the people. At the same time there may be social reform by means of education and social propaganda.

**Written Statement, dated the 31st August 1928, of Mr. P. C. DUTT,  
I.C.S., Collector and District Magistrate, Trichinopoly.**

1. No, except among many educated and thoughtful people.

2. (1) None.

(2) Because it is harmful physically and morally to the nation.

3. (a) No.

(b) Seems to have had no appreciable effect.

(c) To make marriage below a certain age illegal.

4. Not appreciably. May have done all this in a few cases here and there.

(3) Should make marriage illegal if contracted below a certain age.

5. Between 11 and 12 in the well-to-do classes. A year or two later in the labouring classes.

6. (1) No.

(2) Yes, among Brahmins and some other high castes.

(3) Yes, if the girl had attained puberty by that age, among Brahmins and some other high castes.

7. I would attribute it to custom which has some sort of religious sanction behind it among some classes of the Hindus.

8. Yes. It is the same as consummation marriage. Among Brahmins it is generally performed within 6 months of attainment of puberty, among non-Brahmins where post-puberty marriage is prevalent very soon after marriage.

9. No. Not before she is 16 years old if she is a healthy girl. If sickly and poorly developed after this age.

10. Not before 16 years.

11. Many cases. General breakdown in health causing premature old age, and weak children and miscarriages.

12. Yes. I have no doubts about it.

13. I cannot say if this has been particularly noticeable since 1925. But undoubtedly of late years among all educated people the conviction is growing that early marriage is harmful to the political, physical and moral progress of the nation.

14. Uneducated women following blind custom do. Not educated women.

15. None came to my notice.

16. Yes. I am inclined to think so.

17—19. No.

20. No. I should prefer legislation fixing minimum age of marriage. Educated public opinion would generally prefer fixing minimum age of marriage. The uneducated would generally prefer to be left alone but would follow the lead given by the educated in a few years.

21. I would prefer legislation as a lead to the uneducated. Social reform and propaganda are no doubt necessary but legislation will teach the ignorant that the thoughtful section of the community think the present custom of early marriage and consummation harmful and will thus help social reform propaganda.

**Written Statement, dated the 21st August 1928, of Mr. T. V. SUN-DARAJAN, AYL., B.A., B.L., Advocate and Secretary, The Bar Association, Tinnevely.**

I have the honour to append herewith a copy of the resolution of the Bar Association, Tinnevely, in regard to the above matter. I may be permitted to request you to place the matter before your committee, that the feeling of, not only the members of the Bar here, but of the general public, who are interested in the slow but sure reform of the Hindu Society, is against imprisonment in the case of husbands as proposed in the amendment of the Penal Code: 376-A. In our opinion the amended section would lead to disastrous results in a society, which is trying its best to bring about reform in their marriage institution. For an act of excess but ardent and incautious love, which a bridegroom might commit, it will be terrifying that he should be committed to jail for hard labour, which is sure to cast him off from his own wife and the pale of his society. This penal reform is too sudden a jump into the unknown. I therefore request you to place this letter and the appended resolution of our Bar Association before your committee.

*Resolved:* that this Bar Association is of opinion that the Age of Consent must be raised as proposed in the Bill; but consider that in regard to the proposed new section 376-A to the Indian Penal Code, the provision regarding imprisonment be deleted and omitted. Minutes of the Bar Association Meeting, dated 17th August 1928.

**Written Statement, dated the 1st August 1928, of Mr. P. S. DURAI-SWAMY MUDALIAR, B.A., B.L., Yakil, Oiwarkurthy, District Tinnevely, Madras.**

1. Dissatisfaction among the literates.

2. (b) (i) A wrong idea to say that a young woman is fit to live with her husband just after puberty.

(ii) Mere appearance of puberty does not give the young lady sufficient physical development to endure the travails of maternity.

(iii) The appallingly high death mortality in the case of infants born of consummation of marriage just after puberty.

(iv) Children born of premature cohabitation are puny, undeveloped, always sickly and short-lived.

(v) The health of such baby mothers is much shattered by early consummation and they live lives of woes and ill health.



(vi) Instrumental delivery is often the case in case of young girls who conceive just after puberty and their progeny is as a sequence is weak and feeble.

3. Not frequent.

Act XXIX of 1925 is a good check but a feeble one.

4. (a-b) Yes.

(c) No. If Mr. Sarda's Bill is passed, according to census of 1921.

612 widows under one year.

498 widows between 1 and 2.

1,280 widows between 2 and 3.

2,863 widows between 3 and 4.

6,758 widows between 4 and 5.

88,580 widows between 5 and 10.

2,33,533 widows between 10 and 15.

3,24,124 widows will be saved and they will live a life of happiness for which they were born.

5. The usual age is between 14 and 15. But among the rich, where children are sumptuously fed, the girls attain puberty between 12 and 13.

6. (a) No.

(b) Yes, among Brahmins. That too is now decreasing.

(c) Very rare, because parents have come to learn the benefits of the consummation to take place after some months have elapsed.

No case has to my knowledge, gone to Courts.

7. No religious injunction exists so far as I am aware. It is merely a practice in vogue from the past.

8. Garbhadan ceremony is generally performed only at the consummation of marriage. This ceremony is universal among Brahmins and is becoming rare among non-Brahmins.

9. No. Two years must completely elapse after puberty.

10. 16.

11. Cases of consummation of marriage just after puberty:—

(1) Aged 15 and odd; Labour pains weak; a full day elapsed after pains began; the mother was fainting—Doctor was called. The Baby was taken by forceps. It did not survive more than a day.

(2) Aged 15 and odd. Labour pains were dormant 80 hours elapsed. Baby was removed by instrument. It was still born.

12. Yes.

13. Confined only to the educated and knowing public.

14. Women generally not; but there are old hags with one foot in the grave desire to have the consummation as early as possible so that they may have the opportunity to fondle and cares the new born babies.

15. Yes. Registration of births must be made compulsory.

16. Yes.

17. Yes., Extra-marital—12 years rigorous and fine. Marital—6 months simple or fine or both.

18. In the case of marital offences, the trial should be conducted in camera. The proceedings should not be allowed to be reported and published. No copies of the proceedings should be granted. The punishment

should be treated as no disqualification for the offender in his pursuit of life.

20. Fixing a higher Age of Consent for marital cases, is likely to be very effective.

This alone is in consonance with public opinion here.

21. I rely on the penal law to secure the object in view; because education and social propaganda are moving very slow and have no binding influence. Even the educated or on this side.

**Written Statement, dated the 2nd August 1928, of Mr. K. R. VEN-KATARAMA AIYAR, M.L.C., High Court Vakil, Madura.**

With reference to your communication, dated 24th July 1928, enclosing a copy of the questionnaire prepared by the committee I have the honour to submit my answers to most of the questions and to preface those answers with a brief statement.

2. I desire my answers to be understood as based on my experience of the Southern Tamil Districts of the Madras Presidency, particularly the Districts of Madura, Ramnad and Tinnevely.

3. I believe that social and economic causes as well as the spread of education and of modern ideas are rapidly bringing about a change in the desired direction, and that as compared with these causes and forces, penal laws and amendments thereof have had very little general effect. I do not believe that in this part of the country there is substantial scope or need for enforcing social reform by penal legislation as I consider that penal legislation in such matters should not be resorted to beyond the point acceptable to the enlightened sense of the bulk of the community, and that that point is not below the level that even sanguine Legislators may expect to reach by penal legislation.

4. My views and answers may not harmonise with conditions in all parts of our vast country. Experience outside my local sphere may dictate the remedy of penal legislation as unavoidable, as for instance Districts, if any, where pre-puberty cohabitation abounds. But the existing Penal Law meets such extreme cases.

5. The proposed Legislation aims at the practical enforcement of a perception of physiological truth and medical opinion up to an academically high or satisfactory point. The perception of the bulk of the community harmonises with the existing law which is not therefore felt to be odious or oppressive. The proposed legislation is somewhat in advance of it and may fall to be opposed by substantial sections of people on grounds which it is expedient to shut out so far as may be. Once these grounds are successfully trotted out, the door may possibly stand closed against future legislation on the subject even when the perception of the community shall have advanced up to the academically satisfactory point.

6. I doubt the need for my oral examination though it is for the committee to decide it.

1. There is no appreciable dissatisfaction with the state of the law as to the Age of Consent as contained in sections 375 and 376, Indian Penal Code.

2. (1) I have referred to the circumstances justifying the retention of the existing law in the opening paragraphs of this memorandum, but

(2) Personally I am not opposed to the raising of the Age of Consent in extra-marital cases by substituting 16 for 14 under 'fifthly' in section 375, Indian Penal Code and 'fourteen' for 'thirteen' in the exception as to marital cases.

3. Seduction and rape are not frequent in my part of the country. I think the amendment of 1925 has simply left the position unaffected.

4. The amendment of 1925 has left the position unaffected in this case also. I do not think that there was any appreciable number of instances of cohabitation of girls under 13 years of age with their husbands, even before the amendment of 1925.

5. The usual age of puberty in my part of the country is 13-14. The difference, if any, does not depend upon caste, class or community of society. Girls on active outdoor work probably attain puberty later than sedentary stay-at-home girls used to luxury.

6. The answer to the question is in the negative.

8. *Garbhadan* ceremony is usually performed in my part of the country. It is performed only at the consummation of marriage, after the attainment of puberty. Instances of consummation before one year after the attainment of puberty are fast disappearing.

9. Attainment of puberty *per se* is not a sufficient indication of physical maturity. Physical maturity in each case is a question of fact depending upon age and the actual physical development of the girl. I would deem an interval of a whole year after puberty to be a suitable interval at the end of which, if the girl is then not below 14 and is physically sufficiently mature, consummation would be justifiable.

10. Most girls at 14 are intelligent enough to realise the consequences of their consenting to cohabitation.

12. So far as mortality is concerned I do not connect it with early consummation and early maturity. I rather think that inattention to the mother during pregnancy and to the mother and the baby during confinement is substantially responsible for high maternal and infantile mortality.

Turning to the second part of the question the intellectual and physical progress of the people would undoubtedly stand to be furthered by avoiding early consummation and thereby early maternity. I do not think that public opinion will stand stationary. I think that with the march of time and the spread of education the bulk of the community may be expected to view 15 as the appropriate Age of Consent rather than 14 even in marital cases.

13. There has been no further development of public opinion in the direction since 1925.

14. Women undoubtedly favour early consummation of marriage for their children, as compared with men. But they generally approve of postponement of consummation for a year after puberty.

17. I would separate extra-marital and marital offences by fixing different Ages of Consent. For extra-marital offences I would retain the present maximum punishment. For marital offences not amounting to cohabitation before puberty, I would suggest a maximum of a fine of Rs. 2,000. Cases of marital offences before puberty cannot be sensibly distinguished from non-marital or unnatural offences in point of heinousness and maximum punishment.

18. I am inclined to retain such differences as now exist in procedure.

20. I think that the community will suffer penal legislation fixing, say, 14 as the Age of Consent for marital cases and 16 for extra-marital cases but it will chafe against any legislation fixing the maximum age of marriage. In this sense the one is more effective than the other.

21. The remarks which precede my answers indicate my inclination. My view is that when legislation is undertaken it should merely reflect and give effect to the public opinion already reached.

**Written Statement, dated the 3rd August 1928, of Rai Bahadur K. S. YENKATARAMIER, Vakil, Negapatam.**

1. There is not a general dissatisfaction, as the mass are indifferent as to the state of the law: the educated feel dissatisfied with the state of the law.

2. (2) I should like to have an advance on the present law and my reasons are:—

The health and development of the girls now-a-days are far from satisfactory. The simple rural life has been given up. Coffee and tea have established themselves in the houses of the rich and poor alike and are sapping the vitality of the young. The girls who used to attend to the active duties of the family and who will naturally be healthy are being put to school and the physical development is neglected. Early motherhood has therefore to be avoided.

3. Crimes are not frequent in this part of the country. To a little extent the amendment of the law has been beneficial, though it cannot be said to have prevented cases of rape. To make the law effective, the only course is to raise the age.

4. (1-2) Yes.

(3) Not to an appreciable extent.

5. Between 11 and 12.

It does differ in different communities and castes. The high class girls attain puberty earlier than the middle class: the lower class girls who are healthy attain puberty between 13 and 14.

6. (1) No.

(2) Yes.

(3) Yes in many cases.

These cases rarely come to court and do not see the light of day.

7. In this part of the country, consummation of marriage does not take place before puberty and rarely takes place at puberty. It has nothing to do with religious injunction nor am I aware of any religious injunction being observed in this matter.

8. *Garbhadan* ceremony which is nothing but a recital of certain mantrams is performed on the date of consummation: the ceremony is not specially performed on any day apart from the consummation and no such ceremony is observed as such in this part of the country.

9. I do not consider that the attainment of puberty is a sufficient indication of maturity to justify consummation of marriage. I would rather like a period of 2 years or at least 1½ years after puberty should elapse before the consummation is allowed. I would not fix any age: but only the period after puberty.

10. No age can be fixed for the whole of India. I may fix the age at 15.

11. Cohabitation before puberty is rare: but cohabitation after puberty but before full physical development is common and such cohabitation does result in injury to the health of the girl and her progeny. In many cases maternity prove fatal to the mother and child. The girl is a complete wreck and it takes long to recover her health after child birth.

12. Yes.

13. There has been development of public opinion: but only among the educated classes.

14. Educated women are for postponement: but other women are indifferent and are not anxious to postpone, for they consider their responsibility ceases as soon as the girls join their husbands. They consider they are under a great responsibility when they keep the girls after puberty until consummation and the sooner they get rid of the responsibility the better.

15. The determination of the age of girls is no doubt difficult: many cases have to be decided mainly on the evidence of medical officers whose opinions are generally dubious. Proof of age of girls is possible only in case of births within Municipalities and even here no name is given in the registers. It will be better if a separate column is reserved in the register in which the name should be entered after 6 months and within one year. No name is given soon after child birth and names are given only after 2 or 3 months.

Birth registers should be maintained in rural areas too.

16. No.

17. I would like to separate marital offences from extra-marital ones. The punishment and procedure proposed are adequate.

18. The proposals made are sufficient.

19. Trials should not be public, in marital cases.

Ladies should be examined at their residences or in camera according to the status of the witnesses.

No safeguards can be prescribed nor can any safeguards serve the purpose. Honesty and Integrity in those investigating and trying such cases are the only safeguards.

20. A higher Age of Consent should be fixed for consummation in marital cases. It will be better that a minimum age for marriage is also fixed. It is necessary therefore that 2 remedies should be adopted, viz., (1) minimum age for marriage, (2) minimum age for consummation. Hence marriage may precede consummation.

Fixing of ages for each will meet with public opinion in my part of the country.

21. On both.

**Written Statement, dated the 21st November 1928, of Mr. L. N. GUBIL SUNDARESAN, Journalist, Camp, Tanjore.**

The Hindu community is large and the Age of Consent can refer only to those communities where pre-puberty marriage obtains. The Brahmin community in South India has a system where there is betrothal as per Smritis and consummation after puberty. There is much confusion of ideas as well as mis-joinder of facts in this matter. There exists no necessity for legislation at all—all hue and cry about physical deterioration infant mortality and maternity deaths are traceable to poverty, under-feeding, irreligion on account of bad system of education, want of brahmacharya due to impart of foreign culture as against true national culture. Religious principles and parental care have in no way withstood the disastrous results which would be immense otherwise.

Hence no necessity for legislation in the case of the Brahmin community; the alleged evils existing are due to economic and other causes and not to the religious observance of marriage.

**Written Statement, dated the 23rd November 1928, of M. R. Ry. I. KUMARASWAMY PILLAI, Avl., B.A., President, District Educational Council, Tanjore.**

1. Yes; there is dissatisfaction since the Age of Consent has been fixed low and the present law is ineffective in putting down the evil which is eating into the vitals of the Hindu community.

2. (1) The present law should not be retained as it is.

(2) An advance on the present law is urgently necessary. The physical condition of the youth of our country is gradually deteriorating on account of early marriages. There is no law prohibiting early marriages.

3. Crimes of seduction or rape are not frequent in the Tanjore District.

Raising the Age of Consent to 14 years has not succeeded in preventing or reducing such cases.

The Age of Consent should be raised to 16 in marital cases and 18 in extra-marital cases.

4. (1) No. It is moreover difficult to detect cases of violation of the law. Consummation generally takes place soon after puberty, i.e., about the 13th year, if the girl has been married before puberty.

(2) Public opinion is slow and indifferent in such matters.

(3) In the so-called higher castes-marriage is generally celebrated before puberty.

(4) The age of marriage and consent must be fixed at 16 for girls—if not higher.

5. Between 13 and 15, girls attain puberty, and among the well-to-do classes, even earlier.

6. (1) Among Brahmins, in some cases.

(2) Among Brahmins, in a majority of cases.

(3) Among Brahmins, in several cases.

Such cases do not come to court. Evidence won't be forthcoming.

7. Brahmins say there is shastric injunction against it.

8. *Garbhadan* ceremony is usually performed among the Brahmins and other high caste Hindus. It coincides with consummation of marriage. It is generally performed after puberty, but in the case of Brahmins some time after puberty and in the case of other communities at time of consummation after marriage.

9. Attainment of puberty is not a sufficient indication of physical maturity.

The girl must be at least 16, i.e., two or three years after puberty

10. At 16.

11. One instance. At the age of 13, a Naidu girl died at time of delivery along with the child.

12. Early consummation and early maternity are largely responsible for high maternal and infantile mortality. They vitally affect the mental and physical development of the people.

13. Yes. Non-Brahmin conferences and social reform conferences have expressed themselves in favour of raising the Age of Consent. The development of public opinion in the matter is general among all communities except the Brahmins.

14. No; except perhaps Brahmin women.

15. It is difficult to determine the age of girls in such cases. In towns,—birth registers are maintained in a tolerably satisfactory manner but not so in villages.

16. If the Age of Consent is raised to 16, the difficulty will be greatly minimised.

17. Marital and extra-marital offences should be treated as different offences. For extra-marital offences, the present punishment will do.

In marital cases above the age of 14, fine will meet the ends of justice Below 14, 2 years or fine or both.

18. Extra-marital cases may be tried by the ordinary tribunals. Marital cases may be tried by special matrimonial courts and 'in camera.'

19. The prosecution should be sanctioned by the District Magistrate.

20. Fixing the minimum age of marriage by legislation would be more effective than fixing a higher Age of Consent.

The public will favour this alternative excepting Brahmins.

21. Strengthening of the penal law would be preferable since the masses are ignorant and the progress of social reform by means of education and social propaganda is slow.

**Written Statement, dated the 28th November 1928, of Mr. M. T. SOMASUNDARA MUDALIAR, Landlord and Mirasdar, Uttampalyam, Madura District.**

The custom of marriage prevailing in the country now has been a man-made one gradually reformed and restricted for the benefit of society and not a God-made one. So we can alter by a majority to reform it. The Age of Consent for young girls is a most important question. For humanity this is a great problem. This will have to be considered from all points of view moulded by the opinion of men and women, both literate and illiterate, young and old, girls and boys of marriageable age, who will have to come forward and give their opinion before this Government appointed committee.

2. In my opinion, I believe, it would facilitate matters to appoint a separate sub-committee composed of ladies only, provided with vernacular interpreters, to enable ladies feeling shy or otherwise not willing to come forward to present their opinions in person. The committee will have to call for an all-representative public meeting at every place they visit and express their views among the public, in turn, getting their respective opinions. The Ladies' Committee will visit suitable centres of family houses and meet gatherings of ladies, such as are available and thus educate them and after free discussions, in turn, get their opinions so that the problem can be solved without the least difficulty by the ladies themselves who know more about the havoc wrought by early marriage. It should be borne in mind that it is the mother that shapes the life and career of a child, it is she who makes him shine in the world of science, art, politics or industries.

3. We Indians never had the system of early marriage. The emigrated Aryans introduced this untrue system and such of those who adopted that system comprising of a narrow minority still follow it. And even some of these people are adopting post-puberty marriages now-a-days. Remarriage was not completely unknown to us. Disagreed or divorced couples remarried without any difficulty whatsoever.

4. In olden days owing to the preponderance of a particular sex was not restricted. Hence polygamy was allowed on a sex-majority basis. (This situation of the preponderance of a particular sex exists in Europe after the war). Hence this committee in the interests of the country can, without hesitation take up the question of legislation in marriage adding, altering or amending the customs now prevailing as they deem fit.

5. When people of either sex develop a sense of mutual understanding and realise the responsibilities attendant on matrimony then only can marriage be said to be a real solace in life, it is then that the one becomes the better half of the other. Hence, I would suggest, that the age-limit may be fixed at 21 for boys and 18 for girls—thus having a difference of 3 years between the boy and the girl. It is a well-known fact that girls in India attain their age at the early age of 14 or 15 at a period when their bodies are not well developed. So, to give a full scope for an unrestricted growth at least 3 or 4 years must elapse before their marriage. In exceptional cases of girls attaining age at 10 or 11 the same period of 3 or 4 years may be allowed. In ancient times before my generation premature puberty as it exists today was unknown. In those days of my father and grandfather marriage

took place at an age of about 30 in the case of males and 18 to 21 for females. Premature and untimely knowledge acquired by children, of sexual facts was not known to the youngsters in those olden days. This is evident from the fact that our children to-day after gaining knowledge of sexual facts at an undesirably early age of childhood portray it in their then actions of life in playing with dolls. Child marriages prevalent amongst a certain class of people may be attributed to this premature and untimely acquisition of sexual knowledge. For the aforesaid reasons (by allowing a period of 3 or 4 years to lapse after puberty for physical development) restrictive legislation may be introduced fixing the age-limit at 18 for girls. If this age-limit is not observed then I think it would only result in a life of entire misery and suffering. In this connection I should like to suggest that during the lifetime of one wife—whether with or without issues—a man must not be allowed to marry another. Unequal marriages—a man on the verge of eighty going in for a bonnie bride of eighteen—should be put down with a strong hand. The restriction of 3 years' difference ought to be enforced.

6. An eagerness to keep up the tie of blood relationship and an anxiety to limit themselves within the circle of their own relations may be said to be the prime cause for early marriages. The want of proper communication between one place and another made people to limit themselves within their own sphere. It may also be said that the parents' great fear to see that their children do not go out of the way, induced them to get them married at an early age (child marriage). I can say that these difficulties were very keenly felt by one community. But at the present day difficulties of a different kind, by way of an abnormal amount of dowry, beset that same class. A father of three daughters becomes a bankrupt even before his third daughter is married. I am sure, if evidence to-day is taken in camera individually even from among the members of that class the committee will obtain a mass of evidence in favour of abolition of early marriage. Fear of ostracism forces many parents to hide the actual attaining of age of their unmarried daughters and keep them in a post-puberty unmarried state till they are able to secure suitable bridegrooms.

7. Early marriage may be compared to children playing with dolls. The bride and bridegroom are entirely ignorant of the grave consequences and responsibilities of a married life. They only feel and enjoy the fun and mirth. The parents themselves arrange and conduct the marriages. If by chance the match happens to be an equal one everything goes on well and the couple leads a happy and contented life. If on the other hand it turns out to be an unequal match it ends in misery and unhappiness and if Death claims a victim the result is a young widow or widower. At the present day the large majority of widows including many virgin widows is a result of early marriage. I would suggest, however startling it may be, that widowers should be made to marry only widows. Then the large number of widows can be brought down to a negligible number. The custom of aged widowers marrying young girls is very baneful to society and ought to be put down. If this suggestion is put into practice I think we can to a great extent minimise immorality and infanticide.

8. To avoid the difficulty of obtaining the correct age I would suggest the introduction of free and compulsory primary education for adults. By such education people will be in a position to appreciate and understand the evils of early marriages. It is a well-known fact that children reared and brought up by educated mothers are by far superior to children brought up by illiterate parents.

9. Defective people and people suffering from contagious diseases such as leprosy, venereal diseases ought not to be allowed to marry so that the world may be free from disease-bearing and defective children. Public and Government can help them in maintaining these people by providing them with separate lodgings and boardings and making them to do such work as they can possibly do.



10. Marriages, I would suggest, may be done in the present of relations and men of their own community and such marriages must be deemed to be valid. Incidentally, I should like to point out, that the large amount of money spent now-a-days on marriages should be discouraged.

11. Prostitutes have been and are an 'incorrigible nuisance to society. Unless prostitution is completely removed there does not seem to be any salvation for us. The prostitutes may be allowed to marry and lead a pure and chaste life without in any way giving up their usual avocations of dancing and singing.

12. If these aforesaid suggestions are approved and necessary legislative enactments are made then the thoughts of this generation will be properly guided by fear of punishment and will completely root out the idea of early puberty at least in the next generation. Then, I think, we can have a happier India, with healthier men, women and children.

**Written Statement, dated the 23rd December 1928, of Mr. N. L. DORAI, Secretary, District Landholders' Association, Trichinopoly.**

The proposed legislation under the scope of the inquiry is bound to affect the South Indian Orthodox Brahmin community the most. There are some other Hindu communities in Southern India, which are almost 'Brahminical' in culture and outlook and they will all be affected by the proposed legislation. Other communities may, in time, get reconciled to such legislation: but it is impossible to expect the Brahmin community to be dictated to in their religious practices by legislative enactments which have been brought into force with the help of the representatives of various other castes and creeds. It is impossible—for any one else—to imagine the loathing and alarm with which the proposed legislation is viewed by the orthodox Brahmins of Southern India and as such, it is very regrettable that no orthodox South Indian Brahmin has been appointed as a member of the inquiry committee. Such an individual might have been of considerable help to this committee in arriving at a correct estimate of the opposition—which there is—to any sort of interference with the marriage customs of the South Indian Brahmin community. However, as it cannot be helped, it is hoped that the members of the committee will take the cognizance of the necessity for conducting a searching inquiry and make an extended tour throughout the South.

It should be noted that the majority of orthodox Brahmins do not know anything of the proposed legislation or of the formation of the inquiry committee, or of the scope of the inquiry. The orthodox Brahmin is not normally a newspaper reader and I am of opinion that sufficient publicity has not been given to the activities of the Age of Consent Inquiry Committee: so that the necessary attention might have been drawn to the committee and its work. It is no use confining the inquiry to Madras and possibly one or two other towns. It should be noted that the towns are the strongholds of the fashionable Brahmin whose views and aspirations are poles apart from that of his relatives in the country. When persons who know nothing about Mr. Sarda's Bill or the Age of Consent Inquiry Committee are told about the inquiry they lift up their hands and exclaim. 'What are we to do? Where shall we go?' If a proper inquiry is to be conducted in Southern India, the following points should be noted by the members of the committee:—

- (i) The committee should make an extended tour throughout Southern India and visit several representative villages also.
- (ii) Tamil Pamphlets containing the programme of the committee should be circulated previous to the arrival of the committee and

- all sections of the community ought to be invited to give evidence before it.
- (iii) Arrangements should be made for taking evidence in Tamil and efficient interpreters ought to travel with the committee.
- (iv) Eminent Pandits like Messrs. Kasi Krishnamachariar, Mahamahapadyaya Dhandapani Deekshadar of Chidambaram and the representatives of the various Brahmin Mutts like Shingeri, Kumkonam, Ahobilam, Vanamamalai, etc.,—whose words are law to a very considerable section of the Hindu public—ought to be specially invited to tender their views on the matter. (It is inconceivable that any inquiry could be exhaustive without taking opinion from the representatives of the above Mutts.)

In my opinion, there is no necessity for legislation of this sort. As it is, the existing legislation is more or less on a par with that of England and it may be very difficult to enforce the clauses of stringent enactments on the population. The principle of the pre-puberty marriage system is a great blessing to the Brahmin community. It may be said without exaggeration that most of the marriages amongst Brahmins turn out to be happy. It is widely known that the Brahmins, as a community, have expensive tastes and customs. Frequently, they get into debt and it is no exaggeration to say that thousands of Brahmin parents would shirk their responsibilities towards their daughters and keep them unmarried if they can possibly help it, but for the religious injunction to marry them before the age of puberty. Owing to this religious injunction, the Brahmin parents are compelled to marry their daughters in spite of financial difficulties and unfavourable circumstances with the result that the girls are married to husbands who are more or less in social and financial status to their parents and if the parents happen to die soon after, the girls are not left destitute as would otherwise happen. I have personally known of cases where men suffering from incurable and fatal diseases have hastened on the marriages of their daughters so that their daughters may not be left destitute after their impending deaths. Now, legislation on the lines proposed, would prevent parents giving their daughters in marriage before a certain prescribed age and if they die before the time, there is every possibility of their daughters being left destitute. It is only one further step to imagine, what would happen to the destitute girls. Spinsterhood and immorality will increase. It is my considered opinion that the pre-puberty system of marriage has contributed to the wellbeing and stability of the Brahmin community. It has withstood the test of ages. I deprecate the mischievous attempts made by certain persons to compare the pre-puberty system of marriage with Sati, and I emphatically oppose the suggestion made by a certain witness that even orthodox Brahmins are for Age of Consent legislation. The Brahmins fear that attempts may be made by quasi-religious associations—which have pronounced suffragette tendencies—to whip up people of their way of thinking to give evidence before the committee in large numbers. No doubt suggestions have been made before the committee that local vigilance societies may be entrusted with the task of enforcing the clauses of any legislation which may be enacted. According to the present political situation and the communal disharmony prevailing at the present moment, it will be very tragic if power is given to local vigilance committees. Rightly or wrongly, the orthodox Brahmins fear that after an era of political harassment, their community is to be subjected to a period of social harassment and if powers are conferred on local vigilance committees, it may serve as a handle for local communalists to harass the Brahmins.

Irrefutable statistics are not forthcoming to prove that the child mortality and maternity mortality in the Brahmin community is in any way greater than in certain other non-Brahmin communities which have adopted the system of post-puberty marriage. It is entirely due to poverty and want

of hygienic knowledge and proper medical attention that such heavy child mortality occurs in India.

The recent increase of interest in social legislation of this sort is not justified by the needs of the communities. It is entirely the result of the "Inferiority Complex" which has been created in the minds of the fashionable Indians by the allegations contained in Miss Catherine Mayo's Book "Mother India". What is required in the present day is compulsory vocational education for girls before any attempt is made to interfere with the marriage customs of the people.

At present, marriage is the only available career to the vast majority of girls. Any legislation which tends to put off the marriage of girls at the best available opportunity will naturally be an impediment in the way of their contracting desirable alliances. If girls are given compulsory vocational education and if they are able to take to independent vocational careers themselves, marriage may be relegated to secondary importance. But till then, no attempt ought to be made to put off by means of compulsory legislation the marriageable age.

If stringent legislation is introduced for compelling parents to marry their daughters after the age of puberty, there may be considerable trouble in store. Marriage among the Hindus is a sacrament and it is not a contract. In spite of every legislation and in spite of the deterrent punishments, orthodox Brahmins will continue to marry their daughters before the age of puberty, and legislation which aims at changing the system of pre-puberty marriage will destroy the stability of the Brahmin community of South India.

### **Written Statement, dated the 22nd November 1928, of Mr. GEETA-NANDA YOGI, Trichinopoly.**

This Committee has been appointed to solve the problem, I think, of the Age of Consent and of marriage; so that, young widows and deaths of infants and young girls in confinement and child-birth, may be decreased in number by legislation. The age of marriage, if law, only affects the social status of a small number of girls. The age of consent, however, affects comparatively a very large number of human beings.

Young widows are created by the deaths of young husbands and of those who had married second or third time, no matter at what age they were married. We may first examine the real causes of the young girls becoming widows so soon:—

- (i) In these days of English education, students are selected for the first marriage, and the hours of attendance from 10 a.m. to 1 p.m. and from 2 to 5 p.m. On account of the anxiety of all the bright students from among whom bridegrooms are selected they do things and act in a very hasty manner, reading, bathing, eating immediately going to schools and colleges after eating, sometimes playing in the schools after eating, attending to their lessons during the school hours, especially during the hot period of the day, after meals—all these done in hurry-burry undermines their health; health being undermined is not immediately known but at a remote period—either the liver, or the stomach or the heart or the lungs are affected. The bridegroom is not medically examined before settling the marriage. This is one kind of cause for widowhood.
- (ii) Acharas are enjoined by our Shastras to be observed by all the Hindus, especially by the Orthodox; but it is they that are conspicuous in their breach. After all, what is Acharas. It is nothing but the observance of hygienic principles and domestic

sanitary ones. Even the well English-educated Hindus completely neglect to observe them in practice. They neglect to bathe early in the morning forgetting this is a hot country, but they regularly get up after sun-rise. Similarly, other Acharas are neglected. Hence, hookworm disease, influenza, cholera, typhoid, tuberculosis, etc., etc., are largely prevalent, which can all be avoided by Acharas. This is the 2nd cause for young widowhood.

(iii) There is no fixed time for eating, as in the old days—say 60 years ago—I am now aged 66. They have entirely given up the loose, and when they observe a coffee club, they eat something even for credit. This is the 3rd cause.

(iv) Abnormal and indiscriminate cohabitation caused by the absence of any the least control of parents and other superiors owing to the break-down of the joint-family system and the English education at distant places without check and to control, and also self-earning of each member. This is the 4th.

I. As for infant mortality, indiscriminate cohabitation even during pregnancy, absence of milk in the breasts, and ignorance in feeding the child are the chief causes. Tightly tying the breasts by means of waist-coats and drinking coffee and tea make the breasts empty and dry.

II. Want of exercise and fresh air caused by the pipe-water being available in Towns and cities at their very feet in their very houses is the 2nd cause. And so on.

However high the age of marriage may be raised by legislation, the mortality in all the above items cannot be decreased, unless all the above causes are entirely removed. The orthodox people of Kumbakonam have laid great stress in this aspect of the causes of widowhood of young girls in southern India. Their representation is not wrong. But that is no reason why the age of marriage cannot be raised by legislation similarly, other causes, such as peculiar circumstances, poverty, etc., etc., may be rejected as lame excuses. Further they say, that if puberty takes place before the age fixed by law, then the girls will have to be kept under strong safeguards to prevent them from committing adultery. Does not this apply to child-widows? Again, almost all the Non-Brahmins are married after puberty. Are they all kept under strong safeguards? Again, girls after puberty hawk vegetable in the street and sell all sorts of things in the bazaar. Are they all going astray? Are they all kept under safeguards? This argument also is absurd. Therefore, in my opinion, the age of marriage may be raised for the present to 14 years and the age of consent may be raised to 18 years; for in many cases girls do not attain puberty even at the age of 16.

If these ages are fixed by law, the orthodox people say that there will frequent litigation to annoy the parties on account of enmity. For this, I say sufficient safeguards may be provided in the bill. I think that there is no fear of the education of the girls being impeded even if the age of marriage be fixed low. People have begun to appreciate education for girls. The age of consent mentioned above may be taken for all cases, whether marital or non-marital. The enquiry of cases must be entrusted to a first class magistrate. The complaint under this law, may be made either by a registered Association of Reformers or by a person affected by the marriage. How the complainant has been affected must be proved beforehand by a preliminary enquiry specially held for it. The parties concerned in the marriage must not be worried by being dragged into the court unless the complainants' case is proved.

To say that the marriage is held sacred and Government should not interfere in religious matters, cannot hold good; for how did they allow Sati to be suppressed? How much sacredness, they spoil in their daily conduct and their social affairs? Has any orthodox man observed Brahmachari Asrama after his thread marriage? Do they see that their sons perform Sandyavandams actually every day thrice?

*Preventive measures.*

I. The marriage age must be raised by legislation to 14 or above.

II The age of consent must be raised to 18. I see in many cases that husbands who have married 2nd or 3rd time on condition allowing their wives to live with them, cohabit with them even though they have not matured even upto 18.

III. As education mania, especially the English, is fast spreading even in rural parts, no married boys must be allowed for the School final or any other entrance examination; for, only among the students alone, bridegrooms are chosen for the first marriage.

IV. No marriage must be legally held valid, unless medical certificates from a medical board—a single doctor will not do—is obtained beforehand for both boys and girls.

V. All marriages must be registered as vital statistics are done.

### **Written Statement of Mr. R. SOMASUNDARAM PILLAI, Mirasdar and Tamil Pandit, 4174, Dabarcolum Street, Tanjore.**

1. The child marriage is not the hereditary right of Hindus and more especially to the ancient Tamilians.

2. I have heard from elders that child marriage was first introduced in the northern part of India, some 8 or 9 centuries ago by some cause or other, and, it deeply rooted and spread over the whole of India little by little, and penetrated even into the Tamil land which was enjoying a good social, moral and Religious progress unknown to the world.

To check this in human doings, there were no proper authorities. The Tamil Emperors and Kings passed away long long ago. The last Tamil Kings became Aryanised. The unnatural four caste systems of Aryans and their Books began to play freely into the Tamil land.

Even Andanars and Pärpärās of Tamil country were converted into Aryan Brahmins, India were divided into many petty states. The alien kings who ruled one by one did not take care about this child marriage. The British Government also followed their footsteps thinking these cruel acts are religious ones. Time and space did not permit me to write more about the harm arising by Aryan civilization to the great Indian nation.

3. The ancient Tamil Medical and other sciences plainly tell us, that the marriageable age of a girl is after 16, and that of boys is after 24. Because the bodily structure or building completes after 16 to girls and 24 to boys.

4. How odd it would seem when I tell to the committee, long long ago, and before the Aryan systems playing into the Tamilagam that *Anthanas* among temple priests were married after the age 48. This age is called *Elainālyāndu*, i.e., *Bramachariam*.

5. Up to that time they are obliged to undergo strict Religious observations, i.e., studying love and literature, studying Tamil vedic and Religious sciences, studying and practising the deep deep secrets in Temple laws and worships, knowing the material and spiritual electrical current that are prevailing the whole universe, control in food, mind, and in fine bloody senses, etc.

6. These facts are very ably described in *Tirumurugathupadi* by Muni Natkeerar, when praising the fourth padivedu of Tirru-Murugan (4th House of Temple of Subbramanian.)

7. This is the cause, why the ancient Tamils were living to very very old age, i.e., more than 100, 500, 1,000 and so on. Boys and girls were

brought up in true education, adapted to both soul and world. The heart of the ruler and Ruled was the same.

Whose heart embraces subjects all, lord over mighty land.

Who rules, the world his feet embracing stands. •

(Trans. by S. W. Pope.)

The translation do very little to the original.

8. It comes to light, that even Anthanars were celebrating the marriage of their girls after 16 and after puberty. (I do not wish to substitute the word Brahmin for Anthanar. These two have different meanings because two in every clan—special and general. The greatest saint Tirrugnasambanda-swamigal is Anthanaramoung. Anthanars, and the saint Tirrunalipoorear is Anthanaramoung Parias (depressed class).)

9. I am sorry to learn that widows, below 10, are many hundred thousands in India. It is the duty of the government to protect these children from terrible inhuman acts. The human and spiritual love, lighting and current are never thought of by the people in these days. I have seen many child widows are suffering, mostly among the Brahmin communities. A good number of widows, i.e., widows after 18, 20, 25 or 30, are fighting very boldly by fasting and divine worships with law of nature. This is dwindling day by day by the present system of education and civilization. But the non-Brahmin communities are relinquishing the child marriage day by day. They do after 16 in many cases.

I am a Saivattee—a vegetarian by birth—and a strict religious clan. By my father's and my own teachings, all our relatives are now celebrating the marriage greatly after 16 and after puberty.

10. If the Government were determined to undertake to frame laws, considering the present state of things, it would be a great credit and virtue to the British Raj "That girls under 13 and boys under 17 should never be married by any means or under any circumstances."

That law should be followed by all castes and clans. This increases the help and goodness to the domestic virtue and domestic life.

But the nuptial marriage may be allowed after 16 to girls and after 20 to boys.

11. This system also is lacking in benefit, but it may preserve many thousands from child-widows, and a satisfaction to the uproar of the present-day Brahmins, who want the marriage before puberty.

12. Fines may be imposed to the trespassers by special Board. Imprisonment to parents is a cruel one. The law should never be observed by criminal or civil courts, which would be a great inconvenience and trouble to the people in these hard times. But the Government should make proper arrangements in helping and stimulating the people so as to alleviate and improve themselves by their own societies and communities.

### Written Statement, dated the 17th December 1928, of Mr. P. RANGA-CHARYA, Tanjore.

I beg to request that you will be good enough to place the following before the 'Age of Consent Committee,' for an unbiased and favourable consideration and action by all the members of the Committee. Please accept my thanks in advance of your complying with my above request.

2. At the outset, I am anxious to impress on the members of the Age of Consent Committee, that the social institutions and the social customs now

obtaining among the Hindus-proper, particularly among the Brahmins and the two other Dwija communities of people, are based upon age-long and time-honoured sacred Scriptures and Ethics framed and promulgated by highly intelligent, far-seeing, selfless and inspired sages, saints, and seers of ancient Indian fame and glory, who lived their mundane life not only for the benefit of the Hindus-proper, but also for the benefit of humanity at large. I humbly beg to submit in all humility, that neither the Government of India, nor any of the local Governments, nor any of the Legislative Bodies in India, nor the Age of Consent Committee have, in my humble opinion, any business whatever, in the matter of undertaking Legislation of any kind, for the purpose of rectifying or remedying the evils, either imaginary or real, that may possibly exist in the social customs relating to marriages and to consummation of marriages that have been and that are being observed and followed by the Hindus-proper particularly by the Brahmins and by the two other Dwija groups of people for centuries past—on the model or on the basis of or with reference to such customs obtaining in the taken-for granted western and eastern self-styled civilised nations on earth. To explain the above points plainly and bluntly. I am of the honest opinion and sincere conviction, that it is absolutely beyond the province of the above-mentioned Bodies, either collectively or individually, either to interfere or to attempt to interfere in any manner, with the age-long and time-honoured social customs including traditional usages, relating to marriages and to consummation of marriages, that have been prevailing for ages past among the Hindus-proper—particularly among the Brahmins and the other Dwijas, either rightly or wrongly—whether they are considered to be good or bad, according to the crude and the materialistic notions of the modern so-called civilised nation on earth.

3. There is a Doctrine 'ask, it shall be given'. This Doctrine applies to all human beings alike, irrespective of the country or of the nationality to which they may belong. It was promulgated by eminent and inspired Prophets and Philosophers, who were sent by God into the World at different periods of the earth's existence and who established on earth the different Religions relating to the Philosophy of the human life of Mankind. Lord Sri-Krishna of ancient Hindu glory has also enunciated the said Doctrine in the sacred Bhagavat-Gita by stating that though he, as God, was prepared to grant or to give anything that may be asked by human beings, he could not grant or give anything to any person, unless and until he is actually asked to grant or to give.

4. Applying the abovementioned holy Doctrine to the Age of Consent question under reference, some persons whose social welfare is either intended to be promoted, or is proposed to be safeguarded by the contemplated legislation on that question, or some other persons on their behalf, should necessarily ask for such legislation, before those in Power or Authority could, with any sense of propriety, reason and wisdom, think of undertaking legislation on the said question. I respectfully beg to enquire, how many Hindu-proper marriageable boys and girls or maidens, whose marriages and whose consummation of marriages have to take place hereafter and how many parents or guardians of such boys and girls or maidens have actually asked those in Power or Authority, for Legislation on the Age of Consent matter and if any such persons had asked, who asked, whom did they ask and when did they ask. I particularly put the above question to Mr. Sarda, to Dr. Gour, to Dr. Muthulakshmi Reddi and to others of their ilk, who seem to profess to the outside world, that they are the accredited and the self-appointed Agents, (with no Vakalat or Power-of-Attorney obtained by them), Guardians and Saviours of Hindu boyhood, Hindu girlhood, Hindu maidenhood and Hindu womanhood, while there are altogether other persons whose social, moral and religious duty it is to undertake that Agency, Guardianship and Saviourship.

5. I am almost certain—I hope I am wrong in this surmise that there have not been or that there could not have been any real asking or demand

from the persons referred to in the last para. for the contemplated Legislation on the Age of Consent matter, though I concede that some Hindu pretended orthodox or heterodox persons, here and there, may have opened that such Legislation is desirable or is necessary. It goes without saying, that the necessity or otherwise for the above Legislation is the sole concern of the Hindus-proper, particularly of the Brahmins and of the other Dwija Hindus-proper. It also goes without saying, that it is not at all the concern of others, whose social welfare is not intended to be promoted or safeguarded in any manner by such Legislation, whether such persons be either Hindus-proper or Non-Hindus.

6. It is presumed or assumed by certain persons including Allopathic Doctors—who appear to be ignorantly carried away by the erroneous impression, that they possess the monopoly of the entire human medical science and of the power of correctly understanding and judging all affairs relating to the social welfare of mankind—that several evil consequences are caused by the social customs relating to marriages and to consummation of marriages prevalent among the Hindus-proper, particularly by the customs prevalent among the Brahmins and among the other Dwijas. The chief of these consequences are said to be mortality of infants, mortality of young girls and women due to premature motherhood and virgin and early widowhood. I am anxious to point out to the Age of Consent Committee in this connection, that mortality of infants is not non-existent among the people who are not accustomed to early marriages and to early consummation of marriages, in India as well as in other parts of the world, that mortality of young women is not, as a matter of fact, uncommon among the people who are accustomed only to adult marriages and to adult consummation of marriages in any country in the world including India and that widowhood of young women does undoubtedly occur among all people in the world including the Hindus, who are addicted to late marriages and to late consummation of marriages. I also wish to point out that there have been in the past and there are even to-day, numerous members of the two sexes among the Brahmins and among the other Dwija Hindus-proper, who were married in their boyhood or girlhood or maidenhood, whose consummation of marriages took place before and during their teens, who became fathers and mothers, grand-fathers and grand-mothers in due course and who lived and who are living up to a ripe old age. In the face of the above indisputable and glaring facts, it is simply preposterous on the part of any person, whoever he may be, to ascribe the mortality of infants, mortality of young women as well as virgin and early widowhood of girls occurring among the Dwija Hindus-proper in India, primarily or almost solely to the custom of early marriages and of early consummation of marriages prevalent among them. To put the matter in a nutshell, such mortality and widowhood are almost solely due, as a matter of fact, to various special causes other than said customs, which (causes) operate on the social life of the people of every country in the world including India, under the rapidly changing conditions of modern civilisation and social life, in which several injurious and vicious habits of life having been contracted and are being contracted, to a more or less extent, by both sexes of people, either ignorantly, or foolhardily, or carelessly, or indiscreetly, or stupidly, or unwisely, in every country in the world, including India. It is obviously unnecessary to explain what those causes are, in connection with the consideration of the Age of Consent Legislation, in respect of which the Age of Consent Committee is engaged, with which only the Hindus-proper, particularly the Brahmins and the other Dwijas are solely and entirely concerned and who alone and no others, are socially, morally and religiously bound to look after, to promote, to safeguard and to protect the social welfare of their own dear and beloved sons and daughters, in such manner as they themselves may think to be desirable, necessary and feasible.

7. I am tempted to ask in all seriousness, as to whether anybody other than the Brahmins and the other Dwijas will suffer in any manner, in case



the contemplated Legislation on the Age of Consent matter were to be dropped as quite unnecessary and uncalled for. It is the inborn nature of the Hindus-proper as a class, of the Brahmins and the Vysias in particular—excluding of course the Hindus-proper who, while professing or pretending to be Hindus-proper, actually cherish, or are imbued with, or are all immersed in, Non-Hindu ideas and conceptions about the human life of Mankind—to follow scrupulously and rigorously with sincere fervour, as far as possible, the social rules which were prescribed and promulgated in very ancient times for their guidance and observance, by right-minded, noble-minded and flesh saints and Law-givers, who lived in Holy India in the hoary past and who rendered useful, laudable, meritorious and substantial services in the cause of Mankind in general—in the cause of the Hindus-proper in particular. Already, the Hindus-proper including the Brahmins and the other Dwijas have actually made some changes in their original social customs, imperceptibly and slowly, in more than one direction and they are sure to effect some further changes in such customs, cautiously and gradually, in course of time, if and when they may find any changes to be indispensably necessary for furthering their social welfare, in the light of their past experiences and with reference to the changing conditions of their social life. They may therefore be properly and wisely left to themselves, in the matter of making such further changes in their existing social customs, including the customs relating to marriages and to consummation of marriages, as they may of their own accord consider to be desirable, necessary and feasible, by devising the ways and means required for the purpose, in accordance with the saying 'necessity is the mother of invention,' without in any manner seeking the help of either the Governments of the day, or of the Legislative Bodies, or of any other gentleman or lady.

8. No gentleman or lady, however, eminent or highly-placed in the social life, he or she may be, who may be engaged directly or indirectly, or who may take a real or a pretended interest, in the contemplated Legislation on the Age of Consent matter, could forecast or conceive even approximately, the prospective annoyances, worries, troubles, disgrace, oppression, hardships and sufferings that are bound to be inevitably caused in diverse ways, as the direct and the indirect effect of such Legislation, in case it were passed, to those whose social welfare would be affected by such Legislation, by those who may be required or who may be authorised to administer such Legislation in practice, including the unscrupulous Police as well as other officials and other mischievously-inclined and detestable persons, whether male or female, who, in the garb of human beings may be tempted or who may not hesitate, to conduct themselves in a wicked and in an irrational manner in different ways. There can be no doubt whatever, that the contemplated Legislation on the Age of Consent matter, is sure to cause, as a matter of course, more evil consequences than be productive of any real good to the social welfare of the Hindus-proper, particularly to the social welfare of the Brahmins and of the Vysias, in case it is passed, either hastily, or carelessly, or indiscreetly.

9. In the light of the facts stated in the foregoing paragraphs I humbly venture to think, that no gentleman or lady, however eminent, or cultured, or highly placed in the social life, he or she may be, should under any circumstances whatever, needlessly or unwisely pry or attempt to pry, or poke or attempt to poke his or her nose, into the secret and the holy realms of the sacred customs of marriages and of consummation of marriages, relating to the social life of the Hindus-proper, particularly such customs prevalent among the Brahmins and among the Vysias of India, by undertaking any Legislation on the Age of Consent matter, either thoughtlessly or wantonly, or unwittingly or unwisely, especially in the teeth of the strong opposition and objections, oral as well as written, that have already been raised and that may hereafter be raised before the Age of Consent Committee and that have been ventilated and that may be hereafter ventilated in the Press, from time to time, by cultured, far-seeing, wise and aged gentlemen and ladies, including groups of Hindus-proper and particularly in direct violation of the

grave pledges, given by the late lamented, noble-minded and generous Queen Victoria the Good, who, in her gracious proclamation issued in 1858, solemnly assured all her Hindu subjects, that no interference will be permitted, or will be allowed to occur, under any circumstances whatsoever, with the social and the religious customs prevalent among such subjects.

10. I feel socially and morally obligatory on me as an old man aged 65 years, to tell, to advise, and to warn all those who may have any hand in the contemplated Age of Consent Legislation, that in case such Legislation were passed—may God forbid it—it is bound as a matter of course to affect and to disturb injuriously and seriously, the general social well-being of the Hindus-proper, the social well-being of the Brahmins and of the Vysias in particular, in several inconceivable directions notwithstanding the fact that such Legislation may possibly be *bonâ-fidely* intended to promote the social welfare of any one or more classes of the Hindus-proper.

11. I beg to request all the members of the Age of Consent Committee to consider dispassionately and deeply the above views of my humble self, (even though I have not, for some reason or other, been able to communicate those views to the committee already) along with the views of the eminent, learned, orthodox, and far-seeing Brahmins and other Gentlemen and Ladies who have, orally as well as in writing, already communicated their views and who may hereafter communicate their views to the Committee, from the several parts of India, on the contemplated Age of Consent Legislation.

12. Lastly, I humbly beg to be kindly excused for the perhaps spirited and strong language that I may have used in expressing my humble views in this communication, as my only excuse for doing so is, that I feel honestly, sincerely, seriously, and strongly, in the matter under reference. I fully hope and trust, that by God's Grace, all the members of the Age of Consent Committee will be induced to discharge the onerous duties imposed upon them, properly, justly, sensibly, rationally, and wisely, in fear of Man and God, without in any manner being carried away by wrong ideas, by wrong conceptions, and by wrong notions, about the social ethics and about the social customs obtaining among the Hindus-proper—particularly among the simple, innocent, helpless, poor, good-natured, sweet-tongued, soft-hearted, large-minded and God-fearing, but improperly and unjustly maligned of India, especially the Brahmins belonging to the Madras Presidency.

### **Written Statement, dated the 24th December 1928, of the Sourashtra Publicity Bureau, Madura.**

We have the honour to refer herewith to the evidence tendered before your Committee, during your sittings in Madura at the beginning of this month, by the following witnesses, as it has appeared in the "New India" and the "Hindu", both of Madras, in so far as it relates to our community, the Sourashtra Brahmin Community.

The evidence given by the following witnesses contains certain misstatements concerning our community. We wish to correct the same. But before doing so, we like to point out that the original home of the Sourashtra Brahmin community was in the north of India (Guzerat). The community subsequently migrated from there and settled itself in various parts of the Madras Presidency. As a community, we are even now preserving our own individuality. Under these circumstances, the South Indian Brahmins and other communities of these parts cannot claim to know much about our community.

Now, we revert to the misstatements.

**Mr. R. S. Nayudu.** This gentleman has said that "there is a practice among the Sourastras by which married boys and girls are allowed to come

together either in the husband's or wife's father's houses for purposes of cohabitation even before puberty. Within a month or so after marriage, the girl is sent to the husband's house or the husband is sent to his father-in-law's house and the husband and wife are allowed to sleep in the same room."

The above statement is opposed to facts. The truth is that marriages in our community take place between parties living in one and the same place. For instance, a girl living in Madura is usually given in marriage to a boy living in Madura itself. Such being the case, the girl is invited to the husband's house on festive and on other occasions and she spends a few days in the husband's house on every one of these occasions. But let us make it clear that never before puberty, "the husband and wife are allowed to sleep in the same room". Let us also make it clear that consummation takes place in our community only after puberty.

We admit, however, that there are stray instances where cohabitation takes place before puberty as in other communities also. But you will agree that such solitary instances cannot be taken as indications of the general practice.

We fully realise that cohabitation before puberty undermines the strength of both the husband and the wife, particularly the latter and that the offsprings of such a union are mere weaklings. We do recognise that it is an evil to be strongly condemned and indeed we can have no objection to legislation being enacted to penalise such cohabitation.

*Mr. K. P. Thomas*, the Health Officer of the Madura Municipality, attributes the high rate of infantile mortality in our community to the vice of cohabitation before puberty. There being no cohabitation before puberty, as already explained, the high rate of infantile mortality is due to other causes such as poverty and ignorance, especially the ignorance of mothers in the art of bringing up children.

*Mr. N. Natesa Aiyer*. This witness has told you that the Sourashtras follow the practice of the non-Brahmins regarding the marriage ceremonies. This is a travesty of truth.

We are Brahmins by birth. Our customs and practices are therefore same as those observed by the Brahmins.

*Mr. Natesa Aiyer* has also expressed his doubt whether we perform the Garbadhan ceremony. We do perform it.

*Mr. Natesa Aiyer* is one among those who have a prejudice against our community and as such the evidence given by him in so far as it relates to our community is devoid of any truth.

The wrong statements that he has made to you about our community owe themselves obviously to his prejudice against the community.

*Mr. K. Rama Iyengar*. This is another witness who has prejudice against our community.

He says that our community is one which imitates Brahmins. We once more assert that we are Brahmins ourselves. So there is no question of our imitating the Brahmins.

**Written Statement of Mr. P. SESHAIYANGAR, B.A., B.L.,  
Travancore, High Court Yakil, now at Madura.**

1. There is dissatisfaction no doubt among a small percentage of the thinking portion of the educated Hindu community.

2. There are circumstances justifying an advance upon the present state of the law of consent.

3. Crimes of rape are not frequent, cases of seduction do take place and the offenders concerned are generally illiterate rowdies. Raising the Age of

Consent as regards the above to fourteen has not materially affected the commission of such offences. As regards extra-marital offences the Age of Consent should be raised to nineteen.

4. Raising the Age of Consent to thirteen years as regards the husband, has not been without its beneficial effect. In a very few cases in which girls have attained puberty before thirteen years, consummation of marriage has, in view of prospective legal punishment, been postponed.

If there has been any secret cohabitation within that period such cases have not come to Court.

5. The average age as regards the attainment of puberty in these parts is fourteen. But, cases are not wanting in which some girls attain puberty at a much later age, say in their fifteenth and sixteenth year. My own experience is, that girls belonging to classes, whose profession or occupation requires them to be in the open air, most of the day, attain puberty later in life.

6. Cohabitation before puberty and before the girl completes her 18th year is very uncommon; but, cohabitation soon after puberty does sometimes take place, when the husband and the wife have facilities for access to each other.

7. To my knowledge, there is no religious injunction insisting upon the early consummation of marriage and hence the question of penalty for the breach does not arise.

8. Garbhadan ceremony is usually performed in these parts among the Brahmins, though the present day educated youths attach no significance whatever to it, and, consummation of marriage is often effected without any attendant ceremony whatever. There is no rule either sastric or customary prescribing a sort of limitation period for this performance of Ruthusanthi. It may take place within a paksham, i.e., 15 days or, it may be postponed for months and years, if the parties do not find it convenient or cannot agree as to the quantum of pecuniary presents.

9. The attainment of puberty is not an infallible indication of the girls' capacity for consummation. I have come across instances of several girls who are physical weaklings attaining puberty. The correct age, when a girl in these parts may be considered to have attained sufficient development may safely be fixed as 18, when she may be fit for consummation without injury to her own health and that of her children.\*

10. When a girl completes her 16th year, she may fairly be considered fitted to give an intelligent consent for cohabitation. The early consummation of marriage, as it now prevails, is entirely and solely responsible for high maternal and infantile mortality and the majority of weak and unhealthy children are the off-spring of such consummation.

11. The urban public opinion is in favour of the extension of the Age of Consent in marital as well as in extra-marital cases. This development of public opinion is not confined to anyone community, but, extends to the highly educated and thinking Indians.

12. Women certainly want their girls to be married advantageously, but, they do not exhibit any desire to have early consummation of marriage.

13. The determination of the age of a girl is one which the lawyers and medical men would acknowledge to be beset with doubts and difficulties. Opinions of medical experts in the present state of medical science are only probable data to go by. A well-developed girl of 12 or 13 may appear to be much older. The difficulties in respect of the determination of the age can only be minimised and not completely removed. The age limit may advantageously be raised to 19 as regards offences under Sections 375 and 376, Indian Penal Code.

14. The difficulty referred to in this question cannot be removed by merely raising the age to 14. Raising the age to 16 would also allow the girl more time to educate herself better and to fit herself better for shouldering her responsibilities as wife and mother.

17. My own considered opinion is that the minimum age of marriage and the age of consummation as regards the husband, should both be identical, that is the completion by the girl of her 16th year. The fixing of 16 as the minimum marriage age is imperatively necessary on various considerations. The girl can then give an intelligent consent in the selection of her husband. Widowing of girls below 16 would become impossible. The present state of the Hindu law provides for no divorce. The girl has to continue to be his wife *nolens volens* for all her life, while the smritikarthas who by the way were all males, have been partial to the husband who is not prohibited from marrying any number of wives and casting off at his sweet will and pleasure any of them. If the above two ages are fixed at 16, the question of marital offences cannot crop up. But, if it is considered necessary to conciliate the orthodox agitators and protestors, a lower age limit for marriage, say 15, may be fixed and contraventions, of the consummation law may be made not so severely punishable, the same being merely punished with a fine extending to a thousand rupees.

18. Marital offences may advantageously be provided to be investigated by Village Panchayat Courts as now established. In the event of a *prima facie* case being made out, the case may be committed to a First Class Magistrate, who may be employed to convict or acquit. Investigation by Village Panchayat Courts is recommended, as such provisions may facilitate detection and a just trial of marital offences and investigation by respectable men on the spot would act as sufficient deterrent against harassment by prosecution by scheming and inimical co-villagers. Marriages may be made compulsorily registrable as is now done in the case of births and deaths.

19. *Vide* answer to question 18.

20. Raising the minimum age would be more effective, would better accord with public opinion in these parts.

21. Social reform by means of education and social propaganda may probably take many years to convince the ignorant public of the baneful effects of early marriage and early consummation. Legislation is the only panacea for eradicating such evils. People who bitterly oppose beneficial legislations at the start, become thoroughly resigned when the legislation is made and tamely conform with the same when once it has become a settled fact. Our people in the rural parts coolly justify compliance with unsastraic regulations, pleading as excuse that they are bound to duly and implicitly obey Raja Agnai (royal command). The depressed classes who were considered unapproachable and untouchable are now treated differently, because, the Government have ruled that none by reason of caste, creed or calling, should be debarred from access to all public ways and public buildings. The Brahmins in spite of their professed spiritual superiority and sathvic mentality are as zealous seekers of pelf and power as any other class and they have therefore condoned violations of numerous essential, sastraic and customary injunctions for their own aggrandisement. Hence, the agitation now got up against the proposed legislation, is only a bogus one, engineered by some self-seeking vaidiks. Among the Nambudris of the Malabar coast who are sacred Brahmins equally with, if not superior to, the east coast Brahmins, post-puberty marriages are almost the rule, and, they are not on that account considered to have lost caste by the other Brahmins.

All things considered, raising the age of marriage of consummation to 16 for girls and raising the marriage age of boys to 18 would in my humble opinion contribute to the good of our people and of the future generation of Indians.

**Written Statement (Verbaux), dated the 12th August 1923, of Mr. S. ARUNACHALA KUDUMBAN, District Board Member, Usilangulam, Karnati Post, Ramnad District.**

1. Sections 375 and 376 of the Indian Penal Code have not in any way caused trouble or inconvenience to the people; on the other hand they are necessary provisions for the good of the people.

2. (1) It is necessary that the legislation regarding age should not be changed often.

(2) After the people became accustomed to it, a change might be effected later. The present age limit is sufficient.

3. Occasionally cases of compulsion happen in these parts. The amendment of the Act in 1925 has not in any way decreased the number of cases of compulsion. If these have to be decreased, the Government should establish schools of co-education, wherein boys and girls learn together.

4. I think it would be advisable to fix the age of girls at 16, and of boys 18.

5. In these parts girls of all castes attain maturity between the ages of 12 and 16. This depends upon the circumstances of the family, whether affluent or otherwise.

6. There is no sexual connection among boys and girls in early age. No such cases have happened.

7. According to religious rules, no one is bound to celebrate the marriage of girls before or after puberty, and there is no such compulsion here.

8. The ceremony of "Garbhadan" is being conducted. It is done only after the marriage ceremonies are over.

9. I do not think that puberty alone is a sign of the fitness of marriage. If the marriage is celebrated two years after puberty, the progeny will be strong.

10. Indian girls become fit to acquire this kind of knowledge after the sixteenth year.

11. I have in my actual experience seen girls who have been subjected to marriage very early in their life, become physical wrecks later. (I have come across the case of a girl of 10 who was married and who became a physical wreck later.)

12. I have seen numerous cases where early marriage has brought about much damage to health.

13. The people, except those who have the custom of pre-puberty marriage, welcome the raising of the age.

14. Women in these parts desire that their girls should be married only after puberty.

15. These evils can be minimised by strengthening the law.

16. If the age is fixed at 16, this can be minimised.

17. I am not in a position to reply to this question.

18. This is a case if the age is 17. (The answer is not clear, Translator.)

19. If the Government takes vigorous steps, nothing would happen.

20. So far as these parts are concerned, it is necessary that considerations of public good should be the criterion.

21. After providing the penalties, I think the best thing would be that the people should be enlightened by means of education and propaganda.

## Notes on a Visit to Villages by the Age of Consent Committee, Madura.

The Committee visited two villages, Appantirupati and Kallandiri, on the morning of the 28th November, and made enquiries from the people there. The former village is situated about 8 miles from Madura and is populated mainly by Kallars who are cultivators by profession and some Chettys and a few Muhammadans. About 40 or 50 men and an equal number of women attended the enquiry. It was ascertained from the people present that amongst the Kallars girls attained puberty generally at 12 or 13 and that marriages took place about six months or a year after puberty, and that the girls were sent immediately to their husbands and at times a year or two after the marriage.

2. Amongst the Chettys marriages take place before puberty at the ages of 10 or 12 and the girls are sent to their husbands immediately after their marriages. It was also stated that bridegrooms were generally selected from amongst relations and hence girls were allowed to go to their husbands after the marriage.

3. Amongst the Muhammadans it was stated that marriages took place after puberty and were followed by immediate consummation.

(a) As regards maternity it was ascertained that it took place generally at the 15th or the 16th year but there were some cases of early maternity even at 12 or 14. In the latter case the women stated that mothers suffered and children were weak. The women present said that they realized the evil effects of early maternity and consummation and they had no objection to the age of the marriage being raised by legislation to 14 and for consummation to 16; but the men present said that they would not agree to the marriageable age being fixed at 14 and that the women who had said otherwise did not realise their responsibilities in the matter. The men also said that they would not like the age for consummation to be fixed at 16, as it was difficult for them to keep and look after their girls after they had attained puberty. They further pointed out that there were many cases of old men marrying young girls but they would not like to have any law to stop such unequal marriages. They stated that widow re-marriage was allowed among Kallars but it was not allowed amongst the Chettys and Assaries (goldsmiths).

4. Among the spokesman was one Chhokalingam Pillay. He was most vociferous in his objection to fixing a higher age. He admitted that he married twice, that is to say, at first to a girl aged 15, when he was 25 years old and then to another girl aged 15, when he was 35 years old, but had no issue by either of them and that both his wives were alive. Another was Irulandi Antalam who had similarly two wives by one of which he had three daughters and a son and by the other he had two daughters and one son. One of the daughters of the first wife was stated to have attained puberty at 15 and to have been married when she was 16 years old and the other was similarly stated to have attained puberty at 15 and to have been married when she was 18 years old. His other children were said to be unmarried. He observed that he had personally no objection to the age of the marriage being fixed at 14. Another person by name Ramaswamy Pillay stated that he was married when he was 22 years old to a girl of 17 years, that he had two children and that he had no objection to the age being fixed at 14.

5. One of the persons present was Karupana Konan, who was yadav by caste. He said that he was married when he was 17 years old and that he had two sons and a daughter, none of whom was married. He urged that it would not be desirable to fix the age of marriage at 14 as it will be difficult to guard or look after the girls after puberty.

(a) At Kallandiri the population consists mainly of kallars and vellalars, and there are some Chetty families and Muhammandan families too, it is customary amongst the kallars and vellalars to marry their girls after puberty.

6. Among the *Chettys* it was stated that puberty generally occurred at 12 and the girls were married at that age and consummation took place immediately or at times some years after puberty.

7. The women present stated that in the matter of legislation regarding the ages of marriage and consent the men should be consulted. They also said that they preferred to have an interval of about two years between puberty and consummation.

8. Amongst the Muhammadans the girls were stated to attain puberty at 12 or 13 and to be given in marriage after 15.

9. There was a Boys' School here containing about 55 students ranging in age from 6 to 12 years, but none of the boys was found to be married. There was no girls' school in the village.

10. From the individual cases examined it was apparent that the girls were married at the ages of 16, 17 and 18, and among the girls that had gathered, there was one aged 16 who had attained puberty about a year back but was still unmarried.





## VIZAGAPATAM.

### Oral Evidence of Mrs. RAJESHWARAMBA, Secretary, Women's Association.

(Vizagapatam, 4th December 1928.)

Chairman : You are a teacher in the Queen Marry's High School?

A. Yes.

Q. How long have you been a teacher?

A. For the last 10 years.

Q. How many girls are there in the High School?

A. About 150.

Q. What is the age at which you get the girls?

A. From the 5th year to the 18th year.

Q. You belong to the Telugu community?

A. Yes, I am a Telugu Brahman.

Q. Do you think that among all the Telugu Brahmans the custom about marriage and everything is just the same?

A. Yes.

Q. What is the membership of the Women's Association here?

A. 22.

Q. How long has it been in existence?

A. For the last 2 years.

Q. Do they include Telugu Brahmans and other castes?

A. There are other castes but most of them are Brahmans.

Q. Are they orthodox as well as progressive people?

A. There are orthodox people also.

Q. What is the marriageable age of girls among the Telugus?

A. Now they get their girls married between 12 and 13. It is almost always a pre-puberty marriage.

Q. What are the other communities in which pre-puberty marriages take place?

A. Komtis, Goldsmiths, Shudras are copying the Brahmans. As a rule they had no pre-puberty marriages before.

Q. How long have they been copying the Brahmans?

A. For the last 18 or 20 years.

Q. Is that because they want to try to copy the higher castes?

A. Yes.

Q. What is the age at which generally consummation of marriage takes place?

A. There is no fixed age. Consummation takes place soon after puberty. In some places it takes place from the 4th day, only in some parts they wait for 6 months but here the general custom is that it is done within the first 16 days no matter whatever the age of the girl may be.

Q. Is garbhadan a very big ceremony?

A. Yes, it is next to marriage in importance.

Q. Is any money taken from the bride's father?

A. If the bridegrooms's father wants it then money is given.

Q. Is it a very heavy thing?

A. It depends on the state of the bride's father. Generally they give Rs. 500 and 1,000 is the highest.

Q. Do you think garbhadan ceremony is postponed in some cases because they do not give enough money?

A. Yes.

Q. You have had ladies' meetings here, about the Age of Consent or Sardar's Bill.

A. Yes.

Q. When did the meetings take place?

A. Last year.

Q. How many ladies were present?

A. About 100.

Q. Did they include orthodox?

A. Many of them were orthodox ladies.

Q. Do you know what resolutions they passed?

A. Almost all of them were for increasing the Age of Consent.

Q. I suppose they knew that present age was 13 in marital cases?

A. No, but somebody explained it in the meeting.

Q. What was the general opinion of the ladies?

A. The general opinion was that the age of girls should be increased to

16.

Q. Was there any discussion about the age of marriage of girls?

A. Some said it should be 15 but the resolution passed was for 16 for girls and 21 for boys.

Q. Do you think that the ladies there understood these questions?

A. Yes, they were explained.

Q. Was there much discussion on the question?

A. Yes, about 8 or 10 ladies spoke on the question.

Q. Are there cases here where on account of husband not being attainable marriage is postponed?

A. Yes, in some cases it so happens.

Q. We have been told that in some cases the fact of the attainment of puberty is concealed. Is it so?

A. Yes, it is so.

Q. Does that happen in many cases?

A. It happens in a few cases.

Q. Do you know as a matter of fact that ladies feel that social pressure against them is so great that they must marry their daughters early?

A. I have spoken to many ladies and almost all of them complain against the social pressure.

Q. Would they like that their daughters should be married late and consummation should take place late?

A. Yes.

Q. How many girls of 16 or 18 have you got in your school?

A. We have got 16 years old girls but they are married. We have 25 or 30 girls of over 15 both Brahmans and non-Brahmans; some are unmarried but most of them are widows.

Q. Except the communities that you have mentioned marriage in other communities take place late?

A. Yes.

Q. Does consummation take place before a girl is 14 complete or 15 years complete?

A. It is so in very rare cases.

Q. What is generally the age of marriage of these people?

A. About 15 or 16.

Q. You have seen the children of those who marry late; what do you think of girls who become mothers at a late age?

A. Girls who become mothers after 15 can look after their children properly and their health is also much better.

Among Brahmans and Vaishas do you know of girl-mothers of 14 or 15?

A. Yes, some are even 13.

Q. Do you know of any cases who have suffered in health on account of early consummation or early maternity?

A. Yes.

Q. Are there many such cases among the Brahmans and Vaishas?

A. I know of several cases.

Dr. Beadon: How many such cases have you seen within the last 5 years?

A. About 50.

Q. What about those girls—do they go through their labours easily?

A. No, in some cases there is very difficult labour.

Q. Do you think that 10 out of 50 had difficult labour?

A. Yes.

Q. Are the babies alive in those 10 cases or (are) were they still-born?

A. 3 were still-born and 7 were born alive.

Q. What about the other 40 cases?

A. The mothers as well as the children are very weak.

Q. Do you remember how many died?

A. Some of them lost their babies but I do not remember the exact number.

Q. You said that there are 150 girls in your school. How many of them are Brahman girls?

A. About 80.

Q. Do you think there is a great deal of interruption in their education?

A. Most of them are widows. Married girls are not allowed to continue their studies. Child marriage hinders the educational progress of girls.

Q. Do you think those non-Brahmans girls who marry late remain in school up to 18th year?

A. They are sent to school up to 15th or 16th year, and if they do not get a suitable match they are kept home in *goshu*.

Q. Were you trained at Queen Mary's College Madras?

A. Yes.

Q. Do you know any of your classmates who may have been married since?

A. I do not know.

Q. We are told that if Brahman girls are married late, there is a fear of immorality. Do you think so?

A. It is only an apprehension.

Q. Do you find that these widows are liable to go wrong?

A. No, they are under the direct supervision of headmistress. I have been working for the last 6 years and during this period there was no such instance. There has in fact been no case of scandal about them at all.

Q. Do you think that an average girl who gets education is able to withstand the temptation?

A. Yes.

Q. Do you think there is a great deal of danger about their going wrong if they are not educated?

A. Yes.

Q. Why do you think so?

A. Because their mind is not quite developed and they have not much knowledge about the world and they cannot spend their time profitably. They should have some occupation.

Q. Do these girls after education go out in the District?

A. Yes.

Q. Do you find that these widow girls keep all right in the district?

A. Yes. We have no trouble about them at all.

Mr. Mitra: You have said that in the opinion of the Association the age for marriage should be 15 or 16. What do you personally consider the ideal age for marriage?

A. 16.

Q. Among Brahmans where early marriages take place, do girls attain puberty earlier than in other communities?

A. Yes.

Q. What age do you recommend in extra-marital relations?

A. 20.

Q. If there is a marriage law and if anybody infringes that law what should be the punishment—fine, imprisonment or both?

A. Fine does not affect the richer classes, therefore imprisonment is better.

Q. As regards the trial of these marital cases do you want that Judges should have some assessors—one or two of whom might be ladies?

A. Yes, if possible.

Q. If you fix the consummation age at 16, do you suggest that lenient punishment may be given in those cases whether the girl is below 12 or above 12?

A. The punishment should stand as it is at present.

Q. Don't you think that lighter punishment sometimes works better?

A. I would leave it to the discretion of the magistrate.

Q. Have you had occasion to mix with the orthodox classes? Do you think that their religion requires that girls should be married before puberty?

A. It is a bad custom. Women are not given education or they are over-ruled by men and those people who pretend to know the Shastras. If they are given good education and encouragement, they will overcome it easily.

Q. If you fix the minimum marriage at 16, how will the orthodox people take it?

A. For sometime they will feel it but in course of time they will get used to it.

Q. But in their hearts will they be glad because it will give them an excuse for late marriage?

A. Yes.

Mr. Kadri: Is there much desire on the part of the people to educate their girls?

A. Yes.

Q. We have been told that Hindu religion does not provide for the education of females. Is it a fact?

A. No, that is wrong.

Q. Similarly we were told that *kanya dan* can be of a girl only when she is *kanya*. After 8 a girl ceases to be *kanya* so she must be given in marriage by that time. Do you think that the Sastric injunctions are not inelastic?

A. Yes.

Q. Do you find any difficulty in determining their age? Do birth and death registers give correct ages?

A. Many cases give correct birth date.

Q. In your school do you ask for horoscopes in support of date of birth?

A. We ask for extracts from birth register.

Q. What is your opinion about the way in which birth registers are kept? Have you got any experience of the working of this system?

A. No.

**Q.** We have been told by several pandits that directly a girl attains puberty she is physically fit to enter into maternity. What is your opinion?

**A.** I do not think so.

**Q.** In your opinion how much time should elapse between first menses and consummation?

**A.** At least 3 years.

**Q.** It is said that if you punish the boy husband for having early connection with a girl-wife, you are possibly punishing the girl-wife herself because it would estrange feelings and the wife would be discarded?

**A.** The punishment should be for the parents.

**Q.** Would you punish the parents of the boy as well as of the girl?

**A.** We cannot punish mothers because women have no voice but the father should be punished.

**Q.** Widowers are the worst offenders in this respect. Would you let them go free?

**A.** Widowers must be punished.

**Q.** Would you say that boys above 21 should be punished?

**A.** They should be punished after 25.

**Q.** Don't you know that youngmen of 21 ought to know the consequences of their acts?

**A.** You can punish them with fine.

**Q.** There was one case where the boy was 19 and the girl was just 13 and of a very weak constitution. She died the very next morning after connection and the Judge thought that this man ought to have known that he was putting his wife to serious risk and sentenced him to 2 years' imprisonment. Don't you think that there should be some heavier punishment in such cases?

**A.** Yes.

**Q.** Would you rather leave it to the discretion of the Magistrate?

**A.** Yes.

**Q.** We have been told by conservative orthodox people that when a girl attains puberty she has a great craving for mating. What do you think?

**A.** No.

**Mr. Kanhaiya Lal:** Do you know if there is a fairly large number of marriages after puberty among Brahmans?

**A.** Yes, but there is a great opposition to marriage after puberty. In the Queen Mary's College, Madras there are so many Brahman girls who are unmarried.

**Q.** Does consummation before puberty also take place?

**A.** Yes, among Brahmans and Vaishyas.

**Q.** Is it not a fact that these cases are very rare?

**A.** Yes.

**Q.** Are such cases attended with suffering?

**A.** I cannot say.

**Q.** Can you tell us whether there is a large number of cases of widowers of 30 or 40 marrying young girls?

**A.** Yes, there are many cases of widowers marrying girls of 10 or 12.

**Q.** Is this due to the fact that girls of older age are not available?

**A.** Yes.

**Q.** Do you think that it will be desirable and possible to postpone consummation till 18?

**A.** Yes.

**Q.** You have said that girls are likely to go wrong if their mind is unoccupied. Are you speaking of the cities or of rural areas?

A. I am speaking of cities; the village girls are occupied.

Q. After what age do you apprehend this trouble?

A. I think till 16 there is no danger.

Q. In extra-marital cases you have recommended 20?

A. Yes.

Q. Don't you think it is too high?

A. No, girls will not have sufficient knowledge before that.

Q. Have you got a system of Devadasis in this part of the country?

A. Yes.

Q. Do you think Devadasis will remain untouched up to 20? Will the law be effective?

A. Yes. Mothers force them to go into this profession for the sake of money. Many girls come and cry at my house to save them.

Q. Are these women of good character?

A. They belong to the Devadas caste. Their custom does not prohibit them.

Q. In this caste girls generally practise prostitution?

A. Yes.

Q. Is the system of dedication to temples prevalent in this part of the country?

A. No, that is prevalent in the South.

Q. If you fix the Age of Consent in extra-marital cases at 20, would you prevent these girls falling a prey to bad custom?

A. Yes.

Q. A suggestion has been thrown out that in all marital cases the offence should be made compoundable with the sanction of the court so that good relations might be restored? What is your opinion?

A. Yes, it should be done.

Q. Whether the girl is below 12 or above 12 you would allow compounding?

A. Yes.

Mrs. Lalita Amba and Mrs. Somi Devi were examined and they generally agreed with the evidence given by Mrs. Rajeshwaramba.

**Written Statement, dated the 23rd August 1928, of Sreeman B. S. RUTH, B.A., B.L., Secretary, The Madras Presidency Oriya Association, Berhampur.**

1. There is quite a body of public opinion in the country which is rather dissatisfied with the state of the Law in regard to the Age of Consent as contained in sections 375 and 376 of the I. P. C. This dissatisfaction is pretty general among the educated classes who feel that the age qualification now insisted on for giving consent to sexual intercourse is not sufficiently high, and that if the full benefits of legislative interference are to be ensured, the minimum age limit should be enhanced. But it has to be conceded that the discontent is not as active and articulate as one would expect it to be, considering the volume of public opinion that is working itself behind it. This anomalous phenomenon is largely due to the lethargy and inertia which unfortunately characterises the mentality of the educated classes in this country in matters of social reform on account of a certain lack of courage on their part to bell the cat and bear the odium of orthodoxy. But nothing would be more in consonance with informed public

opinion generally than the raising of the said Age of Consent from its present low limit to a higher and more healthier standard. It needs to be added that though generally speaking it is the educated and enlightened sections among the public that are expected to understand and be fully alive to the benefits of the law insisting on an advanced Age of Consent, the uneducated and the illiterate among the populace are not likely to prove altogether unappreciative of the advantages of such legislation. The abnormally high rate of infant mortality which is prevalent in the Society, the delivery difficulties and dangers which of late have been appallingly on the increase; the everspreading phenomena of diseased and physically wrecked daughters and daughters-in-law blasting the peace and prosperity of whole households in localities; and last but not the least, the succession of weak and emaciated children with incredibly low-vitality have brought home to large numbers of people thanks to the educative propaganda carried on by social reformers and medical missionaries—the evil effects of immature sexual intercourse. It is true that orthodoxy will raise its angry head at any innovation that might be attempted to be made in the existing law but the enhancement of the Age of Consent will give satisfaction to many, and most others who are either luke-warm or hostile in the matter, are sure to be weaned away from their present unfavourable attitude with the spread of education and ideals of healthier existence among the people.

2. The following are among the circumstances which necessitate an advance being made on the law relating to the Age of Consent as it stands at present:—

- (a) The age qualifications of 13 and 14 years which are now required under to law to make consent to intercourse valid in marital and non-marital cases respectively are still immature ages, and indeed, are so immature that the advantages which were aimed at by the enhancement effected by the legislation of 1925 have been scarcely appreciable. Accordingly the time old objections which were being urged against the unsatisfactory state of the law in regard to the Age of Consent prior to 1925 hold good even against the present law almost in their entirety.
- (b) Secondly, the ages 13 and 14 are such indistinct periods in the life time of a girl being so to say the marginal period between girlhood and womanhood—that the detection of the breach of the law at present remains an exceedingly difficult affair. The increase to the Age of Consent to sixteen will afford a sure footing for the administration of the law to proceed upon.
- (c) The idea of effecting legislation enhancing the Age of Consent is particularly felicitous at the present moment inasmuch as there has been roused among the general public a certain sense of disgust against the vicious practices of child-marriage and premature motherhood consequent on the publication of Miss Catherine Mayo's *Mother India* and the agitation and introspection that has convulsed the country from one end to another subsequent thereto.

3. Crimes of seduction and rape are pretty frequent in this part of the country, namely, Orissa and its outlying parts, though they are not as common as in certain parts of Northern India, e.g., the Punjab. The amendments of the law made in 1925 raising the Age of Consent to fourteen years in non-marital cases has certainly operated as a restraining factor in the commission of the crimes of rape and seduction, but the check exercised has not been of a far reaching character. It is difficult to propose any measures for the legislature to adopt to make the law more effective in this regard as the remedies that suggest themselves readily to mind are likely to prove more pernicious in their effect than the malady which they might be intended to cure. But it is clear that by far the majority of such cases do not come before Courts of Law largely owing to the fact that parents



or protectors of the aggrieved girls on account of apathy and a false sense of shame do not report the commission of the crimes to public authorities. In certain other cases they are either won over by means of money or coerced into silence by the pressure of the influence of the neighbours. Such suppressions of the news of the commission of the crimes in question can be put a stop to by making non-reporting of their occurrences to the public authorities on the part of parents or protectors of minor girls penal. But even this suggested measure is fraught with defects and possibilities of abuse, and may be attended, in particular circumstances with undue hardships to parties concerned. On the whole the wider and strict enforcement of the law seems to be best left to the growth of progressive opinion among the public and the development of the sense civic responsibility generally in the country which is certain to be on the increase with the advancement of education and ideas of responsible Government among the population.

4. The raising of the Age of Consent to 13 years by amendment of the law in 1925 has not had any appreciable effect in protecting married girls from cohabitation within the prescribed age limit, either by postponing the consummation of marriage or by putting off marriage beyond 13 years; but influence of the legislation in stimulating public opinion in the desired direction has been considerable. The reason why the benevolent intentions of the law have been frustrated in marital cases is the consciousness of the ease with which the penal consequences of its breach can be evaded by a mere conspiracy of silence on the part of the offenders. It is extremely difficult—if not impossible in actual practice—for the authorities to detect such crimes, and even where detected, to secure conviction of the offender by establishing adequate evidence in a Criminal Court of Justice. Courts of Law where such cases have come before them have been rather reluctant to act on the sole evidence of outsiders seeing the innumerable factions of community, caste and other interests that generally fragment Indian society. The only remedy that appears to prove to be effective in this connection is to make marriage invalid—if not penal—before the prescribed Age of Consent in the case of girls. Such legislation will prevent the gross fraud that is now being perpetrated upon the law, and render the nation happier and healthier. Orthodoxy may raise its angry head at such a proposal, but its evil influences are sure to be defeated in the long run and the wisdom of the reform vindicated.

5. The usual age at which girls attain puberty in this part of the country is 12 years. This differs to a certain extent according to the caste, community or class or society to which the girl happens to belong. One factor which determines the age of puberty is the general physical condition of the class of people to which the girl appertains. For instance, among caste Hindus the non-Brahman caste of Doluras (Dalapatis) who were once a martial race and formed the Paik forces of the Orissa Kings, are generally speaking, tall and stalwart people with ample physical parts and features. Among this community it is observed that girls attain puberty earlier than in the other Oriya communities. Similar is the case with the untouchable caste known as Bauries or Khodals who are a strong and hardy class of people accustomed to hew wood in the jungles and bear palanquins of the other communities. Another circumstance which hastens or postpones puberty is the pecuniary circumstances of the parents or protectors. It has been observed that, irrespective of caste, community or class of society, if the parents are well off and the girls are fully and properly nourished, they attain puberty earlier. The early attainment of puberty among the daughters of the zamindars, and the Komati community generally can almost entirely be ascribed to this accident. Generally, Brahmin girls attain puberty a little later than their fellow girls of other communities, but the phenomenon is not uncommon that among the daughters of rich Brahman officials and professional men, the period is considerably hastened.

6. (1) Cohabitation before puberty far from being common is almost unknown in this part of the country.

(2) But cohabitation soon after the girl attains puberty is pretty frequent. In fact the moment the girl attains puberty the consummation of her marriage becomes the immediate concern of the parents.

(3) Cohabitation before the girl completes her thirteenth year is as frequent as cohabitation soon after puberty.

N.B.—But in communities where post-puberty marriage is the prevalent practice, generally speaking, cohabitation soon after the girl attains puberty or before she completes her 13th year is rather rare owing to the difficulty of arranging suitable matches readily. It is seldom that any such premature cohabitations in contravention of the law come to Courts because those who should bring such cases to public notice happen to be either themselves the offenders or their abettors.

7. The practice of early consummation of marriage before puberty does not obtain in this part of the country. Early consummation of marriage soon after the attainment of puberty which is now pretty common cannot be attributed to any religious injunction, though religious texts enjoining the same are not altogether wanting. There is a shastric text often quoted by priests and pandits which is to the effect that if a girl on the fourth day of her menses is prevented from sexual intercourse, those responsible for such restraint are guilty of the sin of destructions of embryo (*Bhrunahatya*). But the practice of premature consummation cannot be said to be due to this textual injunction. Indeed it would be exalting human weakness unduly to say that early consummation of marriage in this country is in solemn obedience of religious ceremony.

8. *Garbhadhana* ceremony is usually performed in this part of the country. It is invariably performed after the attainment of puberty and generally at any time after five or six months after such attainment.

9. It cannot be said that attainment of puberty is sufficient indication of physical maturity to justify consummation of marriage. Generally speaking, consummation of marriage should take place at or after the girl is sixteen years of age, and in no case within less than three years of her attaining puberty, if the health of the girl and that of the progeny to which she might give birth is to be held in view.

10. It is not possible to make a universal statement in regard to the age at which a girl in India can be said to be competent to give an intelligent consent to cohabitation with a due realisation of the consequences. That depends largely on the native intelligence of the particular girl and the education and enlightenment by which her mind is opened up. But apart from the above accidental attributes an Indian girl can be expected to give some sort of intelligent consent to intercourse after fourteen years of age.

11. In one instance a young man with a high University Medical Degree was married to a young girl of hardly twelve years of age who attained puberty soon after the marriage. The marriage was consummated shortly thereafter, and within a year of the consummation the girl gave birth to a child. The early motherhood has made the girl look emaciated and utterly bereft of the bloom of youth. She was a sprightly girl before this unfortunate motherhood was faced on her, and though now hardly fifteen years of age, she has about her the looks and airs of an old matron and her intelligence and spiritedness seem to have fled for ever. It is not possible to state what other physical injuries the poor creature may have been heir to in consequence of her early consummation of marriage.

12. The high infantile and maternal mortality which is now the scourge of this country is largely, if not exclusively, due to the practice of early consummation. The poor physique of the women generally and that of the younger generations and the want of manly zest and enthusiasm which distinguishes young men and women of this country from their compeers of the western countries are also in a large measure the result of premature consummation.

13. As has been stated supra there has been appreciable development of public opinion in this part of the country, as in other parts, in favour of an extension of the Age of Consent both in marital and extra-marital cases since the amendment of the law in 1925. But progress of opinion in this direction is mostly confined to educated classes.

14. Women in this part of the country unfortunately are inordinately in favour of early consummation of marriage of their children. Nothing is dearer to a fond mother than the prospect of her son or daughter being united in wedlock and herself being blessed with a grand baby. In fact, postponement of consummation of marriage after puberty is regarded as a scandal by women in this part of the country.

15. Considerable difficulties are being experienced in determining the age of girls in connection with offences under sections 375 and 376 of the I. P. C. This is largely due to the perfunctory and fictitious manner in which birth registers are being maintained by village officers in this part of the country. Just at present there is a case on the file of a Sub-Divisional Magistrate in this District in which three young men stand charge-sheeted for having seduced a minor girl for immoral purposes. The prosecution allege—according to the version of the girl's mother—that her age is below thirteen while the medical evidence is that she is about fifteen. Such instances clearly show that medical opinion in such matters cannot be accepted as the infallible guide. These difficulties can be got over by making the law relating to registration of births more stringent and also by making marriages below sixteen invalid in law if not actually penal.

16. The difficulties or margin of error in determining the age of girls in connection with the offences in question can be materially reduced only if the Age of Consent is raised to sixteen years in both the cases—marital and extra-marital. For by the time a girl attains sixteen her physical features will have been fully developed and she attains by that age a maturity of mind and intelligence which can be easily distinguished.

17. From the point of view of the purpose of the contemplated legislation, strictly speaking, no distinction ought to be made between marital and extra-marital cases in laying down the Age of Consent for consummation. But equity requires that a man having intercourse with his own wife ought not to be dealt with on the same footing with another who ravages the innocence of an outside girl moreover, public opinion will be horrified if the two offences are classified together and the punishments prescribed for them equated. It is necessary, therefore that the offence in extra-marital cases should carry with it a more severe punishment than an offence under marital conditions. It is proposed that the present proportion between the two sorts of offences in respect of punishment be maintained.

18. There should be no differences observed in the trial of the offences in marital and extra-marital cases, except that in the marital cases the wife should not be compelled to figure as a witness against her husband. This might appear a novel proposition, but in the interests of domestic happiness and amity such an anomaly in the procedural law appears to be wholesome.

19. It is difficult to suggest any safe guards beyond those existing at present against collusion to protect the offender or against improper prosecution or extortion than those already suggested.

20. The fixing of the minimum age of marriage would be more effective than fixing a higher Age of Consent in marital cases. Such legislation also would be more acceptable to the public than the other alternative put forward. But it is submitted even this minimum age of marriage should be fixed higher than the present Age of Consent provided for marital cases.

21. In order that the end in view may be attained, it is advisable to have recourse to tightening of the penal law as well as social reform propaganda. In fact it has been the unfortunate experience that the preaching of social reformers without the aid of law has so far fallen on deaf ears.

**Oral Evidence of Sreeman B. S. RUTH, B.A., B.L., Secretary, The Madras Presidency Oriya Association, Berhampur (Ganjam).**

*(Vizagapatam, 4th December 1928.)*

**Chairman:** Are you the Secretary of the Oriya Association, Berhampur?

**A.** Yes.

**Q.** What is the membership of the body?

**A.** There are about one thousand members on the rolls.

**Q.** Do they come from all classes of people?

**A.** Yes.

**Q.** What is the object of your association?

**A.** The object of the Association is to promote the well-being of the Oriya speaking community by all peaceful and constitutional means. It is both a social and political body. The Association concerns itself with anything that concerns the uplift of the Oriya classes.

**Q.** Was this question discussed in your Association?

**A.** This question was discussed at a meeting of the executive committee of the Association.

**Q.** Did you come to any conclusion about the age of consent and the age of marriage?

**A.** In fact the whole memorandum was put before the Committee and it was only after they approved of the replies that they were sent to the Committee.

**Q.** What is the age that you would have for marriage?

**A.** It should be 16 as a minimum.

**Q.** You say that the minimum age of marriage should be fixed higher than the present age of consent?

**A.** Yes; it should be 16.

**Q.** What is the age you would have for the age of consent inside marital relations and outside?

**A.** It should be 16 in both cases.

**Q.** And what would you have for the age of marriage of boys?

**A.** It can be 18 or 20.

**Q.** Are you aware that there are orthodox people who believe that pre-puberty marriages are essential?

**A.** Yes.

**Q.** And are you also aware that besides Brahmins there are others also who consider that they are essential?

**A.** Yes.

**Q.** Do you think that there is any way by which we can allow them to have marriages at any age they like, but at the same time prevent consummation before 16?

**A.** I do not think it is possible.

**Q.** Most of the Brahmins want to have the liberty of marrying their girls before puberty. You want to prevent early maternity and suggest that 16 should be the age of consummation. Is there any way of allowing the Brahmins and the Vysyas to have marriages at any time they like, and yet prevent early consummation, say before 16?

**A.** Then if we have only the age of consent law, the law would be honoured more in the breach than in the observance.

**Q.** Do you believe that there is a good number of people who feel that this is a matter of social tyranny, and who would be glad if they are protected?

by law to enable them to marry their girls late, but who are now unable to do so because they are forced by public opinion?

A. I think so.

Q. Do you think that there are cases of consummation before 13 now?

A. I know instances. It is very common in the case of second marriages.

Q. Have you known of cases of consummation before 13 or 14 or 15 complete?

A. I know of several instances. Before 15 it is quite common.

Q. What is your experience about the health of these girls?

A. Yes; their health is destroyed.

Q. Do you know of any classes amongst whom there are marriages necessarily above 16?

A. Amongst the Oriya Non-Brahmins, post-puberty marriages are the rule. In their case there is no hurry for early marriages.

Q. In that community do you think that mothers are better able to look after themselves and their children?

A. Their health is certainly better. If they are unable to look after their children, it may be due to want of education.

Q. We have been told that amongst Brahmins their girls do not suffer although they are married early and become mothers at 14 or 15. Do you think so?

A. I think their condition is really pitiable.

Q. Do you think that the condition of the Brahmin and the Vysya girls who have pre-puberty marriages is not good?

A. Amongst the Oriyas, it is only the Brahmins that have pre-puberty marriages and not the Vysyas.

Q. Is there pre-puberty marriage amongst goldsmiths?

A. No; they too have post-puberty marriages.

Dr. Beadon: Have you come across girl-mothers of 14 or 15?

A. Yes.

Q. During the last 5 years, how many cases do you think you have met?

A. I have met at least a hundred cases of mothers at 15.

Q. What is the average health of these girls?

A. It is very poor.

Q. Have you met any cases in which there has been loss of vitality at the first child-birth?

A. Yes; several instances.

Q. How many cases have you met within the last 5 years?

A. I have met 20 to 25 cases.

Q. Did the children in all the cases survive?

A. Not often.

Q. In these 20 to 25 cases do you think that the children died because the mothers did not have education?

A. It was partly due to that, and partly due to premature motherhood.

Q. We are told that first motherhood may be fatal even in the case of older women. Do you think so?

A. It is true to a certain extent.

Q. Do you think that fatality is common in the case of the first child-birth more amongst the Brahmins, or amongst non-Brahmins?

A. Amongst Brahmins the percentage would be higher.

Q. What is usually the age of marriage amongst the Oriyas?

A. Amongst those who have pre-puberty marriages, both amongst Brahmins and non-Brahmins, it is between 10 and 11.

Q. And what is the usual age of consummation?

A. 13 or 14.

Q. You have given us a case about a girl who was very badly injured. Can you give any other instance?

A. No.

Mrs. Nehru: Is this Association of yours confined to the Madras Presidency alone?

A. It is confined to the Madras Presidency in this sense that only people of the Presidency can become members; but its aims and objects are rather wide.

Q. To what districts do your members mostly belong?

A. To the districts of Ganjam and Vizagapatam.

Q. What is the condition of the education of women in your community?

A. It is very deplorable.

Q. Do the girls go to schools at all?

A. There is no girl school for Oriyas in Ganjam.

Q. Are there primary municipal schools?

A. Yes; there are schools in Berhampur and Parlakimedi.

Q. How many girls attend the High School here in Vizagapatam?

A. Only 3 girls go there.

Q. What is your population in Vizagapatam?

A. It is very difficult for me to say, because the aboriginal tribes here are Oriyas, but the Andhras say they are not.

Q. Is there any special difficulty that prevents the girls from going to schools?

A. Yes.

Q. In the districts other than those represented by your Association, are there any Mission schools for girls?

A. No.

Q. Are there any Government schools?

A. In Ganjam and Vizagapatam there are no schools. But in Cuttack there is one.

Q. Are women generally literate?

A. Fairly a large number of them are literate. They learn reading and writing at home.

Q. In para. 3 of your statement you say that crimes of seduction and rape are pretty frequent in this part of the country. Can you tell me amongst which classes they are frequent?

A. I cannot make any distinction like that.

Q. Are girls of the Oriya community seduced and taken to other provinces?

A. Yes.

Q. What is the age of the girls at the time of seduction?

A. Generally under 18. There may be some instances of cases over 18.

Q. Have you known of any cases where those girls have been sold?

A. I have read of Oriya girls being sold in Rangoon and other places. I cannot give you details, but I hear that they are sold by the Coolie Sardars.

Q. You say that the present law is not known by the people, but at the same time you say that the influence of legislation in stimulating public

opinion in the desired direction has been considerable. How do you reconcile the two?

A. I refer to the educated community.

Q. Have you known of cases where consummation has been postponed because of this law?

A. Not directly; but it has effect. People now generally realise that there is a such a law, and they will be punished for breach of the law.

Q. You say that marriage legislation will prevent the gross fraud which is now being perpetrated upon the law. What do you mean by it?

A. Because people who can speak to the offences directly happen to be the offenders or their abettors.

Q. Will not the same conditions be there even if the age is increased?

A. Therefore the remedy that I have suggested is that the age of marriage should be raised, because marriages are known.

Q. If people favour early marriage and you say that they do it wouldn't they intentionally break the marriage law?

A. They cannot, because marriage is a public affair.

Q. If the depth of feeling against legislation is strong enough, they would even openly break the law.

A. That is why I have suggested imprisonment, and not fine only.

Q. You say that people would not bring cases under the age of consent law to light, because the complainants happen to be near relations of the parties. Can you give us any other reason why cases are not brought to light?

A. There is a false sense of shame obtaining amongst the people.

Q. Do you therefore think that there is any likelihood of such cases coming to court, under any circumstances?

A. No; never.

Q. What is the caste of the girl, and that of the offenders whom you refer to in para. 15, where you say that a minor girl had been seduced?

A. I do not know the caste of the girl.

Q. Do you know the caste of the offenders?

A. I do not know that either; but I may say that these are not confined to any particular caste or community.

Mr. Mitra: In para. 15 you say that marriages might be declared invalid under 16. Have you considered that amongst Hindus girls cannot get married again, and their children would therefore become illegitimate? Do you think that it is such an easy thing to declare marriages invalid?

A. If a law is enacted making such marriages invalid, in the course of years, the law may be made to take a more lenient view of such cases.

Q. You think that between punishment and declaring marriages invalid, the latter is a more lenient one. But the effects would be far-reaching. When the marriage is declared invalid, the girl cannot get herself married again and the issue would also suffer. The results would be very drastic. The whole thing was considered in Sarda's Bill, and it was found that in regard to Hindu marriages it would be drastic.

A. I would then cut out invalid marriages.

Q. You fix the same age for marital and extra-marital relations. But people say that as regards marital relations one has only to look to the full development of the girl. But in extra-marital cases the girl must have attained such an age of discretion when she might be able to realise the consequences of her action. The Indian girl almost observes Purdah and therefore she requires protection up to a greater age. Do you agree?

A. In that case I have no objection to the age being fixed at 18 in extra marital cases.

Q. In para. 3 you say that non-reporting of offences under the age of consent law to the public authorities on the part of parents or protectors of minor girls might be made penal. Do you think it will be possible? You yourself later on suggest that it will be a hardship. Do you therefore insist on that?

A. No; I do not insist on that.

Mr. Kadri: In para. 1 you refer the lack of courage on the part of the educated classes, and that there is inertia and lethargy which characterises the mentality of the educated classes. Is it your opinion that a majority of Hindu public opinion would favour fixing a minimum age for marriage and the age of consent?

A. The majority may not favour it now. But a majority of the educated classes would be in favour. Most of the uneducated people are generally orthodox.

Q. In para. 3 you refer to the development of civic responsibility. Would you place the duty of reporting cases of breaches of the law on vigilance societies or social reform associations?

A. That would be the last thing I would be because of the fictitious spirit that prevails in the villages. Now-a-days even to the reform associations and vigilance associations the elections are conducted on party lines. I do not think even women's associations will do for the purpose.

Q. Is there a Government Panchayat Board at Vizigapatam?

A. There are Panchayats in every village in our district.

Q. Is there any Act under which they have been constituted?

A. Yes; we have got the village Panchayat Act.

Q. What are their duties?

A. Chiefly to try certain small civil and criminal cases. But I might say that elections even to these Panchayats are conducted on party and communal lines.

Q. In para. 5 you refer to the caste called Dalapatis who are generally strong physically. Are there late or early marriages amongst this community?

A. Early marriages.

Q. Do you say that in spite of early marriages the progeny is healthy and strong?

A. It is so. Amongst them marriages take place early, and consummation takes place some months or a year after puberty.

Q. Is it the same with the class of people known as Bauries or Khodals?

A. Yes. Amongst them also marriages take place before puberty.

Q. You say that Brahmin girls attain puberty a little later than the girls of other communities. But we have been told that they usually attain puberty earlier, because of the practice of pre-puberty marriages amongst them. Is that so?

A. I do not think it will be so, except in cases where consummation before puberty is permissible.

Q. We have been told that puberty comes on earlier because from their very infancy the girls hear of marriage, and also because marriage takes place before puberty.

A. I do not think so.

Q. You say that cohabitation before the girl completes her 13th year is as frequent as cohabitation soon after puberty. Do you therefore think that there are many cases of breaches of the law?

A. Yes; there are many cases.

Q. What are the communities where post-puberty marriage is the prevalent practice?



A. All Non-Brahmin communities except Karnams of particular subjects.

Q. You say that early consummation immediately after puberty cannot be attributed to religious injunctions. What is your authority for saying so?

A. These injunctions are not absolute. They are only recommendatory and are not binding on the communities. In actual practice the injunction that the consummation should take place within 16 days of the first menses is seldom observed.

Q. You say that it would be exalting human weakness unduly to say that early consummation of marriage in this country is in solemn obedience of religious injunction ceremony? But we have been told that early consummation is enjoined by the Sastras.

A. I am reminded of the saying that *somebody* can quote scriptures for his own purpose.

Q. You say that the high infantile and maternal mortality is largely, if not exclusively, due to the practice of early consummation. We have been told by some witnesses that this mortality is mainly due to frequent maternity with insufficient spacing, and not to early consummation. What is your opinion?

A. It may be partly due to that, but it is mostly due to early consummation.

Q. What is the system obtaining in regard to the registration of births in this part of the country?

A. In the municipal areas it is the municipality that records births. It is obligatory on the parents to report births, but it is not generally done.

Q. Is not non-reporting visited with fine?

A. The fine is not sufficiently severe, and the municipality does not sufficiently enforce it.

Q. What is the system prevailing in the villages?

A. It is the duty of the village headman to report births.

Q. Is there any obligation on the part of the parents?

A. It is there, but it is not enforced.

Q. Do you think that if the present rules are strictly enforced, the registration will be satisfactory?

A. Yes.

Q. You say that in marital cases the wife should not be compelled to figure as a witness against her husband. Do you not think that convictions cannot be secured if the wife does not go to court?

A. In murder, for instance, the murdered man does not go to court, and yet convictions are secured. The same thing can be done in these cases also, and the offence proved by means of circumstantial evidence.

Q. But then the girl might be subjected to medical examination, and the husband would suspect that she had done some thing.

A. But then she would not be directly instrumental.

Q. Do you not think that it would be a hardship on the defence to shut out the principal witness?

A. I think it should be done in the interests of domestic amity.

Q. Does not the accused deserve protection.

A. It is in his own interests that this should be done.

Q. There may be failure of justice.

A. I do not think so.

Mr. Kanhaya Lal: You are in favour of fixing a minimum age for marriage. We have been told that there might be cases in which the law might be infringed, and people might celebrate marriages below the age

fixed. In such cases would you have as an auxiliary a law fixing the age of consent?

A. Yes; I said I would fix the age at 16.

Q. Would you make the offence cognisable or non-cognisable?

A. I would make all marital cases non-cognisable, whether the age of girl is above 12 or below 12.

Q. Do you not think that you will thereby be narrowing the chances of detection?

A. Yes; but we propose that the age of marriage should be fixed at 16. Where, therefore, will there be breaches of the law and consequent chances of detection?

Q. Of course the age of marriage will postpone consummation. But where is the harm in making the offence cognisable?

A. I would not allow the police, as it is, to interfere in these matters.

Q. Who will then collect and gather evidence to support the trial?

A. I think it is the duty of every citizen to take interest in such cases.

Q. Are you not thereby narrowing the chances of detection by restricting the right of complaint to persons who are not in possession of the information? The wife will not complain, and the parents will not complain. Others will not have information.

A. My opinion is that the evil would be greater if the police interferes.

Q. Supposing we require that marital cases should be enquired into by a senior officer of the police, say, a Deputy Superintendent, or Circle Inspector, would you like it?

A. Generally the officers do not directly do it.

Q. Supposing there is a provision in the Code of Criminal Procedure that the enquiry should only be made by gazetted officers, do you think that would be a sufficient safeguard?

A. Yes.

Q. Would you then have any objection to the case being made cognisable?

A. No.

Q. In all marital cases would you like that there should be a preliminary enquiry by the Magistrate before the prosecution is actually started, so that all malicious cases might be eliminated?

A. Yes; that would be desirable.

Q. It has also been suggested that after this preliminary enquiry these marital cases might be tried by separate courts which might be called matrimonial courts, consisting of a magistrate and two non-officials sitting as co-judges. Do you agree?

A. Yes; that would be better.

Q. Would you have the non-officials sitting as assessors or jurors or co-judges?

A. They might be assessors taking part only in the assessment of the guilt.

Q. Do you not think it would be better to have two men as co-judges? Cannot you get two men from each district drawn from the best class?

A. Yes; if you can get men of the right stamp.

Q. Would you like that in suitable cases the Magistrate might allow the offence to be compounded, so that good relations might be reintroduced between the parties?

A. Yes; I think it might be made compoundable with the sanction of the court.

Q. If you have both a marriage law and an age of consent law, would you like to have a system of registration of marriages giving the names, the ages and other particulars about the marrying parties, so that we might be able to find out later on if the law has been infringed?

A. No; that would cause unnecessary harassment to the people.

Q. Would the harassment be greater than that which you have in requiring the registration of births and deaths? Will not the number of marriages be very much less than the number of births or deaths?

A. That would mean additional harassment.

Q. If marriages are not reported to a certain prescribed authority it will not be easy to discover whether the law has been broken?

A. If any such offence is committed in society, there will be many persons to report. An obligation to report on the part of the people would mean additional harassment especially in the rural areas if people are asked to go long distances to make reports.

Q. Are they not now required to make reports about births and deaths?

A. It is the duty of the officers to collect information.

Q. Would you recommend that priests might be required to report the marriages?

A. I would not recommend that.

Q. Would you require the parents to make the report?

A. No; I do not want that they should be harassed.

Q. Can you then suggest any method for making the law effective?

A. The only effective method would be to fix the minimum age for marriage.

Q. Supposing there is no legislation for marriage, or the age is fixed only at 14, what would you suggest to prevent early consummation, say before 16?

A. In such cases consummation of marriages might be required to be compulsorily reported.

Q. Do you think that people would advertise consummation in that manner?

A. I do not think that it would detract from their dignity if they report these things. If it is made legally binding, they would do it.

Q. Do you think that consummation can be more conveniently registered rather than marriage itself?

A. If a minimum age of marriage cannot be fixed, as things stand at present, then consummation of marriages might be made to be compulsorily reported. I think that even if we report marriages, they would not serve the purpose.

Q. Have you got the Devadasi community here?

A. They are found only in Orissa. They work in the temples there.

Q. Have you got the prostitute class?

A. Yes; we call them Daris. They are a hereditary class.

Q. You say that the age of consent in extra-marital cases might be fixed at 18. Do you think that these girls would be kept untouched till then?

A. It will be difficult.

Q. Up to what age then do you think we can make the law operative?

A. It can be 18. But even then I do not think it would be effective amongst these dancing girl communities.

Written Statement, dated the 11th August 1928, of M. R. Ry.  
**MANTHA SURYANARAYANA GARU, B.A., Pleader, Vizianagaram.**

1. I have had a talk with several people of various communities in this Division, Vizianagram, after the 'questionnaire' were received by me, and it may perhaps be surprised to the Committee, if I say that none of these people are aware of the amendment of the law of the Age of Consent. Of course I mean the uneducated people. In the mofussil, and in country villages, the law as it exists becomes known to them, only when it comes to a Court of Law. Villagers are conversant with the existence of provisions in the Penal Code regarding kidnapping and offences relating to marriage. The educated classes, however, feel that marriage before the girl completes her fourteenth year is injurious to the health, alike of the girl and her progeny. It is a matter which goes without saying that there are a good many orthodox people—Brahmins and non-Brahmins, who think that marriage after puberty is prohibited, but even these are clearly of opinion that consummation ought to be postponed till after the fourteenth year. The educated and cultured classes have no dissatisfaction with the state of the law as it exists, and they desire an advance.

2. I believe that infantile mortality is higher in the lower classes as a whole, and in many cases in the upper middle and higher classes where the marriage is consummated at an early age. In the communities that desire to educate their girls, consummation at an early age at 12 or 13 affects education, and also their health. It is desirable in the interests of the country, that consummation should be postponed to as late an age as possible. I am strongly of opinion that the Age of Consent can and ought to be raised to at least 14 years, whether it be marital or non-marital.

3. Crimes of this description are very rare in this district.

4. As I have submitted in my answer to Question No. 1, I do not believe that consummation of marriage is generally postponed until the girl attains the age of 13. Girls in general attain puberty in their 12th or 13th year, and marriage is consummated on the *bath day*, the fourth day after puberty. In fact nobody seems to care to ascertain the age of the girl, whether she is 12 or 13 or 14. If she attains puberty, marriage is consummated on the fourth day, as a matter of course. It must be said that the function of consummation is a question in which the man has absolutely no voice and it rests with women entirely and they as a rule desire its performance at once—more for the *tamash*, and a desire to show herself off as a host, than anything else. There are some men and women too who are alive to the danger of early consummation, but the generality do perform the consummation on the bathing day, whether the girl be 12, 13 or 14 years old. The matter is never brought before courts. The age of the girl is not a matter which is known to the Police, and the near relations of the girl never complain. The result is that the law must and will remain a dead letter in so far as the marital cases are concerned. The educated and cultured have been doing everything they can to put off consummation and I am afraid that it takes a long time before anything like an adequate public opinion can be brought to bear on the subject.

I am of opinion that penalizing the marriage itself, what we call *Vicham*, as opposed to consummation, goes a long way to prevent consummation before the proper age. *Vivaham* ought to be postponed until the girl completes her fourteenth year.

5. The girls among agricultural and industrial classes as a rule attain puberty rather late in about the 14th year or so; but in those classes who have plenty they attain puberty in about the 12th year. Healthy and robust girls in every community attain puberty in the 12th or the 13th year.

6. Co-habitation before puberty is extremely common among agricultural classes—pardon me for using the term—among common Sudras. Of course in the upper strata of this class it is different. But among the agricultural

classes, marriage is performed when the girl is yet a child from the age of three years, and marriage is as a rule consummated before puberty. In the middle and upper middle classes, with a few exceptions here and there, and that too, for exceptional reasons, consummation is almost always done on the fourth day after the girl attains puberty—be her age 12 or 13 or 14.

I have not heard that any such cases have come to Court in this part of the district.

7. The practice of performing consummation before puberty certainly is related to religion. It is the belief of all—Brahmins or non-Brahmins—that the attainment of puberty on some specified stars (Nakshatram) is extremely inauspicious. Astrologers say that puberty in *Anani*, *Rohini*, *Mrugasira* and such other Nakshatrams, is auspicious, and puberty in certain others is extremely bad. Astrology says, for instance, that if she attains puberty in *Bharani* Nakshatram or *Asresha*, she becomes a widow. It is believed that if marriage is consummated before puberty, the badness or the inauspiciousness of the star has no effect, and therefore, Sudras as a rule consummate marriage before puberty. Astrology also says that if puberty is attained on a bad star, the evil effect can be obviated by performance of *Santhi*, and therefore, I believe that Brahmins and other regenerate classes hope to get out of the evil effects by performance of *Santhi*. And as this is not available to the fourth class, commonly called Sudras, they are afraid of the consequences of the possibility of puberty in a bad star.

8. Garbhadan ceremony is performed among Brahmins and Vysyas on the fourth day after puberty as a rule, and marriage is consummated that night. But among Kshatriyas and upper classes of Sudras, it is performed on the day of the marriage. As a rule marriage is performed in these classes after the girl attains puberty, and therefore consummation is done the same night.

Among Brahmins, consummation is postponed if the star of puberty is bad—from 3 to 12 months. If the bridegroom may be in a distant place, or the bridegroom's mother or other female elder desires the ceremony to be done in her house, then it is postponed. Among Brahmins, the women make a great show of this. As I have said already, the postponement of nuptials (or consummation) until at least a year after puberty obtains only in a limited number of cases, where men and women are both cultured.

9. I have submitted already that girls attain puberty ordinarily in the 12th or the 13th year. The girls do not know how to talk cogently. They do not know to do the ordinary domestic duties. They cannot dress the vegetables. It is inhuman to expect them to realise the wifedom, or perform in any manner, the various duties she is expected to do in her husband's house. I do not say that it comes in the way of her education. She can have the benefit of it in her parents' house as also in her husband's house.

Attainment of puberty is certainly not a sufficient indication of physical maturity, as a rule—in a large majority of cases. I would certainly not allow it at least until two years after puberty, until the girl completes her 14th year, if it is not possible to legislate for a postponement by another year.

I have had a talk with several of my friends, members of the Bar, or Lecturers in the College, and Medical men. They all think that legislation prohibiting consummation of marriage till the girl completes at least the 14th year is most desirable.

10. I am not able to assign any reasons, but I think that at about 13 or 14 year, she can give an intelligent consent; but if it is to be with due realization of consequences, I think she is not capable of it till at least she is 16 years. I know that serious objection would be taken to this course, on the ground that the climatic conditions of the country do not permit a postponement of consummation till such a late age as 16. It may be true; but a healthy bringing up will be proof against misbehaviour.

11. My personal opinion is that puberty by itself is no indication of physical development. There may be a few exceptions. Nuptials and cohabitation immediately after puberty have resulted in injury to the health of the girl and it has affected the progeny also. That is my experience, but as I am a layman, and am not in the line of keeping notes of such cases, I am not able to quote any details.

12. I do not think that any reasons are required for my answer to this question. But I am unquestionably of opinion that early consummation and early maternity are entirely responsible for infantile and maternal mortality, and there is no doubt that this is solely responsible for the physical deterioration.

13. Intellectual public opinion is in favour of an extension of the Age of Consent in all cases, marital or extra-marital.

14. From what I have submitted above, you will find that women do favour consummation of marriage for their children as very early as possible.

15. If it is possible to pass an act of legislature similar to the act of registration of births and deaths, making it compulsory that a report shall be made of every marriage and consummation of marriage, detection will become easy. Like the non-reporting of birth or death, the non-reporting of a marriage or consummation, within a stated period after the event, can be made penal, and a light punishment can be provided.

16. If it is possible to do some such thing as I submitted in my answer to Question No. 15, the difficulty can be minimised. The generality of the people, the masses, would come to know that consummation before a specified age is made penal, and that the registration of marriage, together with the registration of the birth, would expose them to the penalties of law. Else the act that is now contemplated, either the Age of Consent bill, or Mr. Sarada's Bill penalizing child marriage, would remain almost dead letter, and will bear no fruit. It is only very extreme cases that come before the Court. Such cases as do come, will be extra extra-marital cases. I honestly think that marital cases do not come before the Court at all.

17. It is equitable that difference should be made between marital and extra-marital cases. I do not think there should be any change in the sentence. I do not however see any reason why the parents of the girl and the husband should not be charged as abettors in marital cases.

18. The Court of Session is the Court that has to try the cases under Section 376. In the case of marital cases, however, I think, a Court of the First Class Magistrate can be invested with jurisdiction. It saves the time of the Sessions Court as also cost.

20—21. Education and social propaganda are the safest guides in matters matrimonial, especially when our system is so much entwined with religion. But I think, we shall have to await, possibly for another two or three generations, before these can effectively influence us and I think legislation on the lines would hasten progress a great deal. The raising of the Age of Consent, and an act penalizing child marriage are both necessary and the combined effect will be considerable.

In conclusion, I submit that I am thinking to appear before the committee to give oral evidence.

**Oral Evidence of M. R. Ry. MANTHA SURYANARAYANA GARU,  
B.A., Pleader, Vizianagram.**

*(Vizagapatam, 4th December 1928.)*

**Chairman:** How long were you practising at the Bar?

**A.** I have been practising at the Bar for the last 35 years.

**Q.** Am I to understand that you have given up the practice now?

**A.** Practically I have given it up now.

Q. To what community do you belong?

A. I belong to the telugu Brahmin community.

Q. Am I to understand from your evidence that you are in favour of both an act of Age of Consent and an act of age of marriage?

A. Yes. Personally I want both.

Q. I thought you would have preferred penalising of marriages to the Age of Consent but you seem to want both. Is that so?

A. The Age of Consent must be raised at least to 15 and that is certain but I don't think any useful purpose will be served by raising the Age of Consent without at the same time preventing these marriages before 14 or 15.

Q. Do you suggest that the age for the marriage law and for the law of consent, should be on the same footing?

A. Yes.

Q. Is co-habitation before puberty amongst the agricultural class here very common?

A. It is not very common.

Q. Now do you think that in those cases a breach of the law is committed?

A. Yes.

Q. What is the reason for these cases not coming to Court?

A. They don't come to court and the cases are hushed up.

Q. Supposing there is only an Age of Consent law and no marriage law, do you think that will be effective?

A. It all depends upon the registration of marriages.

Q. Supposing there is only the Age of Consent law and no law of marriage—supposing by some chance it is not passed—do you think that the Age of Consent law alone will be effective by itself?

A. Intra-marital cases generally do not come to court. So a mere law of consent, will not be effective.

Q. Are you for registering births, consummation and marriage?

A. Yes. But if the marriage is registered, it is quite sufficient. The consummation of marriage needn't be registered.

Q. You have fixed the age 15 for penalizing marriages? What is the age would you fix for boys?

A. 18.

Q. Supposing a law is passed fixing the minimum age at 15 for marriage, do you think it will meet with the approval of many people in this part of the country, a great many being orthodox?

A. The orthodox people are against it. They are in favour of postponing the consummation of marriage till 14 at least but not for postponing the marriage till after 15.

Q. Do you think that they are in favour of raising the Age of Consent merely because the Age of Consent law has been ineffective and will continue to be ineffective?

A. At least cultured people will follow it if it is raised.

Q. Do you think it is worthwhile to raise the age to 14?

A. No, because a girl is hardly fit to be a mother at that age.

Q. Would you have 15 for the present?

A. Yes.

Dr. Beadon: You say in your answer to Question No. 6 that amongst the agricultural classes the marriage is performed when the girl is too young and the marriage is consummated before puberty. Have you heard any such cases of motherhood before 14?

A. It is not in reality but it is only nominal.

*Q.* Is it due to an economic cause amongst the agricultural classes that the girl is married very early?

*A.* The girl is married very early because the girl goes to her husband's house immediately and she is of help to her father-in-law and mother-in-law.

*Q.* Would she not be a help in the same way to her father and mother?

*A.* But the girl goes to her husband's house, there she takes her husband's food and does the domestic work.

*Q.* Can she not do this work in her own house?

*A.* As soon as this nominal consummation is made, she goes to the husband's house.

*Mrs. Nehru:* You say that amongst the Sudras pre-puberty marriage is very common whereas we have been told that the non-Brahmins and the Sudras are post-puberty marrying people. Can you tell me the classes of people who have pre-puberty marriages?

*A.* There are various classes who marry their girls just when they are two or three years old.

*Q.* Can you name them?

*A.* Vellamas, Kapoos, Golas and the Majjus.

*Q.* Are they all agricultural people?

*A.* Not only they are agriculturists but they do various other occupations.

*Q.* Which part of the country do these people represent?

*A.* They inhabit Vizianagram and other portions of the district.

*Q.* Have you any knowledge of the people who are living outside this district?

*A.* No.

*Q.* What is the population of these people?

*A.* I think they represent 1/3rd of the population of the district. All Sudras are not having post-puberty marriages. I must say that about half of the population are such that they do not care to postpone marriage till at least 10. They marry their girls when they are quite young, say at 4, 5 or 6.

*Chairman:* Do they send their girls before they attain their age?

*A.* No, they don't.

*Mr. Nehru:* Do they have polyandry?

*A.* I don't believe there are any.

*Q.* You have said that girls cannot talk cogently. What do you mean by it?

*A.* They are so young that they do not know to talk. I mean to say that they cannot talk with their fathers-in-law.

*Q.* Do you mean to say that their intelligence is not sufficiently developed to be able to perform the duties of home?

*A.* Yes.

*Q.* Have you said anything about the punishment in a marital offence?

*A.* I think my personal opinion is that there should be a severe punishment. I think fine will do.

*Q.* Will you have fine irrespective of age?

*A.* I said that so far as the girls are concerned, consummation can be postponed to 15. Below 15, if it is performed the parents will be liable to a fine.

*Q.* You know the present punishment is that below 12 there is 10 years rigorous imprisonment and penal servitude for life. Between 12 and 15 it is two years imprisonment or fine or both. So, when you propose fine, do you propose it for all ages?



A. I think it can be put down that between 12 and 15 fine will do. Below 15, severe punishment should be called for.

Q. Below 12 will you have 10 years rigorous imprisonment or will you like to lighten it?

A. Below 12, I would keep the punishment as it is now.

Q. Do you want the parents to be charged as abettors?

A. Yes.

Q. Would you give them any punishment?

A. They should be fined.

Q. You have said that this law is at present ineffective and will be so in future. Would you not under these circumstances advocate its repeal?

A. I don't advocate the repeal. I want to have the law in such a way that it will not be possible to contravene it.

Q. Can you suggest any method by which this law can be made effective?

A. I think that if we were to have registration of births, marriages and consummation of marriages, the law will be then effective.

Q. Will the law by itself be effective?

A. By itself it will not be effective.

Q. You suggest a marriage register but unless there is somebody to make use of that register it will not be of any use. Is it not so?

A. Of course some complaints must be made.

Q. To whom would you give the right of complaint?

A. I would like to give the right of complaint to social reformers.

Chairman: Would you like to give the right of complain to the general public?

A. Yes.

Mr. Kadri: In para. 13, you say that you have had a talk with various communities. Are Brahmins included in those communities?

A. Of course they are included.

Q. Do you think that the Brahmins also are in a majority of cases in favour of raising the Age of Consent to 15 in this part?

A. Yes.

Chairman: Are the members of the Bar Association all Brahmins?

A. With the exception of one or two the rest are Brahmins. (I put in a resolution of the Bar Association of Vizianagram before the Committee, passed to the effect that Age of Consent should be raised.)

Mr. Kadri: In para. 10 of your Statement you seem to think that the minimum age for consummation should be 14. Would you raise it to 16?

A. I have talked with various gentlemen and they are of the same view as mine but the majority of the people want 14 whereas my personal opinion is 16.

Q. What age would you fix for extra-marital cases?

A. It can be anything.

Q. Don't you think that our girls do require greater protection when it is an offence committed by a stranger?

A. Since it is an offence committed by a stranger, no doubt he should be severely punished. Let the Age of Consent be 16 in this case.

Q. You say that you are of opinion that early consummation and early maternity are entirely responsible for infantile and maternal mortality. Do you not also think that frequency of maternity and insufficient spacing are also equally responsible for this?

A. Early maternity as well as frequent maternity are also equally responsible for infantile and maternal mortality.

**Amrit Kanhaiya Lal:** Do you recommend that cases between 12 and 15 should be made non-cognizable?

A. Yes.

Q. Are you not narrowing the chances of detection by making that recommendation?

A. They wouldn't come to light. The chances are small. Those who are interested can complain but very few will complain.

Q. But if we have a marriage register of the kind you have suggested and it is discovered on examination from the register that certain marriages have taken place before the prescribed age and if the police or the chowkidar also keep a watch over these marriages, would it not help us in bringing the cases to light?

A. The village people are such that if you allow the police to interfere in these matters, they are sure to raise commotion and havoc.

Q. Do you mean to say that there will be a danger of the abuse of the power in villages?

A. Yes. Specially in villages it will be so.

Q. If we ask the gazetted officers of the police to make enquiries in these cases and none else, would that be a safeguard?

A. It would be some safeguard.

Q. Would you further recommend that in all marital cases the Magistrate should make a preliminary enquiry before issuing a summons or a warrant or a notice?

A. That will be useful to some extent.

Q. Now under the existing system cases of girls under 12 go to the Sessions Judge and above 12 go to the Magistrate. Would you recommend that instead of these cases going to two different Courts, all marital cases might go to a matrimonial court consisting of a Magistrate and two non-officials?

A. That is a very good suggestion if we can have men of the right stamp in every district.

Q. Should these two non-officials be assessors or jurors or co-Judges?

A. I would prefer them to be co-Judges.

Q. Would you make these offences compoundable with or without the sanction of the Court?

A. I would make these offences compoundable with the sanction of the Court.

Q. Would you like these cases to be compounded irrespective of the age?

A. It is left to the discretion of the Magistrate. I am personally against cases being compounded below 11 or 12. I would not allow cases to be compounded below 12.

**Written Statement, dated the 11th August 1928, of Dewan Bahadur C. YENKATACHARAM PANTULU GARU, B.A., B.L., Advocate, Rajahmundry.**

1. So far as I am aware of there is no dissatisfaction with the law as contained in Sections 375 and 376 of the Indian Penal Code among the masses. There is some dissatisfaction with existing state of the law among the extreme section of the social reformers who want to prohibit ante-puberty marriages even among castes in which according to Hindu Law and Custom Post-puberty marriages are prohibited.

2. In my opinion the present law regarding the Age of Consent should be retained as it is and no advance should be made on it. My reasons are that any advance made on the law would affect the husbands pre-

judicially. If the intercourse be with the consent of the girl it would be impossible to get at the offender because the girl is not likely to expose the man. Even in the case of husband it would be impossible to obtain evidence as neither the girl nor her relations would denounce the man. There is also the further danger that if the girl conceives even though in consequence of intercourse with a stranger the poor husband would suffer and will have to pay the penalty under the penal law as the girl and her parents to save their honour would give out that the conception was consequent upon intercourse with the husband.

3. Crimes of seductions and rapes are not frequent in my part of the country.

4. The amendment of the law in 1925, has resulted in a postponement in the consummation of the marriage beyond 13 in the vast majority of cases and public opinion is in favour of such postponement. In rare cases even now the marriage is consummated before the girl completes the 13th year but no action is taken for the obvious reason that it would be difficult to prove in a court of law that the girl did not complete 13 years. The amendment of 1925 has not put off marriage beyond 13 among Brahmins and Vaishyas of these parts among whom a girl should be married according to Hindu Law and Custom now prevailing before she attained puberty.

5. Girls attain puberty usually after completion of 12 years and before the completion of the 13th year among the higher castes. In the labouring classes and people who mostly lead out door life puberty is attained during the 14th year and in very rare cases in the 15th year.

6. Co-habitation is not at all common in this part of the country now-a-days before puberty. Co-habitation soon after puberty is also becoming rare as among the well-to-do classes living in towns it has now become the rule to put off consummation for 6 months if not more after puberty and in rural parts also the example of the town is followed. I have not heard of any cases coming to court.

7. I do not attribute the practice of the early consummation of the marriage at puberty to any religious injunction. The practice if at all exists only in the case of elderly men who have taken young girls as second or third wives.

8. Garbhadan ceremony is performed as a rule among the Brahmins and Vaishyas in my part of the country and it coincides with the consummation of the marriage. It is performed generally from 6 months to 1 year after the attainment of puberty.

9. I do not consider that the attainment of puberty as a sufficient indication of physical maturity to justify consummation of marriage. I think in the case of a normally healthy girl her physical development may be considered enough to justify such consummation without injury to her health or her progeny provided such consummation be after the establishment of the regular menses which would not be earlier than 6 months after puberty.

10. A girl in India would be competent to give an intelligent consent to co-habitation after the establishment of the regular menses.

11. I have not come across any cases referred to in this question.

12. My answer is 'no' because Brahmins and Vaishyas among whom early consummation is prevalent have not deteriorated either intellectually or physically.

13. It is only among the class of social reformers that there is any development of public opinion in favour of extension. The masses are against the extension.

14. Orthodox women who are illiterate who constitute the majority are in favour of early consummation of marriage but they are slowly reconciling themselves to the practice of putting it off for a longer period after puberty.

15. It is certainly very difficult to ascertain the age of the girls in connection with the offences referred to because in the vast majority of cases

reliance could be had only on expert medical evidence which would be indefinite and vague. The only course to remove these difficulties would be to take steps to enforce the accurate registration of births and by making birth registers a permanent record.

16. My answer is 'no' because it would be always difficult to be able to determine with any certainty the exact age which could only be guessed at within a margin of a year or two.

17. I am in favour of classifying extra-marital and marital offences differently in cases where the intercourse is with the consent of the girl. In case of a marital offence with consent I suggest a heavy fine and not imprisonment. I would not draw any distinction between extra-marital and marital offences if the intercourse be against the will of the girl.

18. In cases of offences within the marital state the case ought to be taken cognizance of only on the complaint of the blood relations or with the sanction of the District Magistrate.

19. I cannot suggest any safeguards against collusion to protect the offender. My answer to Question No. 18 would be a safeguard against improper prosecution or extortion.

20. I consider that legislation fixing a higher age consent will be more effective than that of fixing a minimum age of marriage. Raising the minimum age of marriage would provoke considerable amount of opposition and discontent among classes among whom according to law and custom post-puberty marriages are forbidden.

21. I am strongly against the strengthening the present penal law to secure the objection view which is in itself certainly most laudable. I rely more upon education and social propaganda. Consummation now-a-days is not so early as it used to be ten years or more ago. I attribute this more to education and the example set by the enlightened classes and not any penal legislation or threads thereof.

### **Oral Evidence of Dewan Bahadur C. YENKATACHALAM PANTULU GARU, B.A., B.L., Advocate, Rajahmundry.**

*(Vizagapatam, 4th December 1928.)*

**Chairman:** How long have you been at the Bar?

A. I have been at the Bar since the year 1888.

**Q.** Are you a Telugu Brahmin?

A. Yes.

**Q.** In your answers to Question Nos. 11 and 12, you say that you have not come across girl mothers below 15 or 16. Have you not come across of any girl mothers say before 15 is complete?

A. I have never seen girls becoming mothers before 15 is complete. I have only heard so.

**Q.** Do you mean to say that amongst the Telugu Brahmins girl mothers before 15 is complete are a rarity?

A. No, it is not a rarity but there are very few cases.

**Q.** Are you of opinion that amongst the Brahmins and Vaishyas amongst whom there are pre-puberty marriages and consummation soon after, the girls and their children have not in any way physically suffered?

A. I say that consummation is never performed soon after puberty.

**Q.** Now it has become more or less a rule to postpone consummation for some time after puberty; but puberty may come at 13 or at 12. For instance if a girl attains her age at 13, there can be consummation below 14 or 15. So have you seen in these cases any girl mothers or their children suffering?

A. I have never seen any but I have heard of cases.

**Q.** Are you against raising the minimum age of marriage because it will provoke opposition?

**A.** Yes.

**Q.** Is that the only reason?

**A.** It is a matter of faith and the bulk of the Brahmin population would not think of having such a thing.

**Q.** You have said that it will provoke opposition. Is that the only reason?

**A.** That is the principal reason.

**Q.** Do you think that pre-puberty marriages are considered essential by certain classes on account of the custom that is prevalent now?

**A.** From time immemorial this custom of pre-puberty marriage is in vogue and it is not of recent growth.

**Q.** Now in your 2nd para. you say that no advance should be made on the present law of consent. May I take it that those rules apply to the present law of consent as well?

**A.** Yes.

**Q.** So would you advise abolition of the present law?

**A.** I am against going back upon it.

**Q.** You do not want an advance simply because if it is now raised to 14 or 15, it would really affect the people and at 13 it never affected the people and so you want the present law to remain as it is. Is it correct?

**A.** I would leave the matter to propaganda workers.

**Q.** Leaving it at 13 and not increasing it means leaving a dead letter on the statute. Is that not so?

**A.** It is not a dead letter if the cases occur.

**Q.** Do you know of any cases where consummation has taken place below 13?

**A.** I have heard that consummation has taken place below 13 but they never come to light because nobody sees them.

**Q.** Do you rely upon education and social propaganda for this?

**A.** Yes.

**Q.** May I ask you if you have attempted any of that kind?

**A.** There has been such a propaganda before the amendment of the law of 1925 that the postponement of consummation for some time is due to that propaganda.

**Q.** Do you mean to say that a girl is fit to be a mother before 15 is complete?

**A.** Yes.

**Q.** If medical opinion is to the effect that a girl cannot be safely a mother before she is 16, would you modify your opinion?

**A.** No, I will not modify my opinion even then.

**Mrs. Nehru:** Have you come across any girl having conceived with somebody else and putting the blame on the husband, as is mentioned by you in your statement?

**A.** I don't say as a class they behave like that. There may be cases like that.

**Q.** You have also said that by the amendment of 1925, consummation of marriages have in a vast majority of cases been postponed beyond 13. In that very para. you have said that the Brahmins still marry their girls before puberty. How do you connect these two statements?

**A.** The Brahmins are always doing pre-puberty marriages and they will do it.

Q. What reasons have you to think that the 1925 amendment has resulted in the postponement of consummation and marriage in certain sections?

A. Because the very knowledge that there is such a law has some effects on the educated classes.

Q. Have you seen any consummation of marriage being postponed on account of the amendment of 1925?

A. I cannot say that but I can only infer that consummation has been postponed.

Q. In para. 6 you say that it has become a rule to put off consummation for six months if not more after puberty. Is this of recent growth or this time is always given between puberty and the consummation of marriage?

A. For the last fifteen years, this has been the case.

Q. Are there a great number of elderly men who marry a second time or a third time in whose case you think that immediately after puberty consummation takes place?

A. Consummation immediately after puberty is very rare. Now-a-days very few people marry for a second or a third time.

Mr. Mitra: In para. 20 you say that raising the minimum age of marriage would provoke considerable amount of opposition and discontent among classes among whom according to law and custom post-puberty marriages are forbidden. What law you refer to here?

A. I am referring to the Hindu law on "custom". According to both law and custom my view is that amongst the Brahmins and Vaishyas post-puberty marriage is forbidden.

Q. Do you think that there is any law as regards the consummation of marriages?

A. There is no law or custom.

Q. In para. 7 you say that you do not attribute the practice of the early consummation of the marriage at puberty to any religious injunction. Are you aware of any Shastric text enjoining consummation within the first sixteen days after puberty?

A. No, I am not aware of it.

Q. At what age the marriage takes place amongst the Brahmins?

A. In the vast majority of cases the marriages take place at the 11 or the 12 year. Marriages below 10 very rarely take place. I may tell you that never after 13 marriages take place amongst the Brahmins, and even if the girl attains her age, that fact is suppressed.

Q. Don't you find that from your experience the age is gradually going up?

A. The age is going up but never more than 13 because there is a danger and she might not secure a good match.

Q. Can you quote any text which says that marriages must take place before 13 or before puberty?

A. I cannot quote any text. That is the custom.

Q. Have you ever gone outside this District?

A. I have never gone outside this presidency.

Q. Don't you know that the customs vary in different castes?

A. Yes.

Q. Don't you also know of any Brahmin having post-puberty marriage?

A. There are cases within my knowledge and nobody denounces that.

Q. Have you never heard of Nambudari Brahmins having post-puberty marriages?

A. It may be but I don't know anything about them.

Q. Is there any class of people amongst whom marriage is celebrated very early say at 4, 5 or 6?

A. Such marriages occur in all communities but are very rare and are condemned by society.

*Dr. Beadon:* How many such cases do occur in a year?

A. 2 or 3.

*Mr. Mitra:* What will be the shape of resentment when anybody gives his daughter at 12 or 13 or even after puberty?

A. There is no denunciation. On the other hand people wink at her.

Q. But is it not a fact that people like it in their heart?

A. Yes.

Q. In fact is there no social oppression of any kind?

A. In general amongst the enlightened classes there is never any oppression.

*Mr. Kadri:* You were good enough to tell us that in the case of your own daughter-in-law, you were careful to see that consummation did not take place till she was 14 complete. Would you not wish that other people should have similar practice in their families too?

A. I do wish.

Q. How can you induce them to have similar practice?

A. By setting an example I can induce them to have similar practice.

Q. You have been good enough to tell us that by reason of the consent law of 13, people have postponed consummation beyond 13; then don't you think that if we raise the age to 14, we will be able to induce them to conform to the new law?

A. Indians are law abiding people and if there is a law and this law is sufficiently published and they come to know of it there will be no inclination on their part to break it intentionally. But when people are postponing consummation by themselves then why invite opposition by enacting a law?

Q. But it will help progress.

A. It may not help progress because there will be opposition and it will actually be a set back.

Q. Would you not like to follow the example of those people who are marrying their daughters at 14? Don't you think we should have a legislation to encourage them?

A. I am not against raising the age to 14, but I think propaganda will be better.

Q. You think there would be no resentment against the law of consent if it is raised to 14?

A. No.

Q. In para. 20 you talk of raising the minimum age of marriage. There is no minimum age of marriage fixed now.

A. I am not fixing any age; it would ordinarily be an age after puberty.

Q. How far are you prepared to go?

A. I would have the word puberty and not age.

Q. Would it not be a vague term?

A. Fixing 12 or 13 will be vague but after puberty will not be vague.

Q. Do you not realise that we have got a very large number of virgin widows in the Hindu Community? Don't you think that in view of the pitiable condition of the widows we should do something?

A. I think the remedy for it is to encourage widow remarriage.

Q. Are you in favour of it?

A. I am not against it. I will not come in the way of a man marrying a widow.

\* *Mr. Kadri:* In para. 15 you say that birth registers should be maintained accurately. What are the practical suggestions for making this birth register more reliable?

A. In municipal areas birth registers are maintained. It is a duty cast on the parents to make a correct report of the births but in rural areas it is not correctly done. I would make it more strict. They should be made permanent records in the rural areas. At present they are destroyed after 10 or 15 years.

*Mr. Kanhaiya Lal:* Don't you think that if consummation is started at 13 or 14 the education of the girls will be hampered or interfered with?

A. I really do not see any reason why it should be hampered.

Q. Would the relations of the husband allow her to go to a school or college after she has gone to live with the husband?

A. My own view is that a married girl need not go to a school or college at all.

Q. Don't you think that the starting of consummation at an early age leads to the devitalisation of the girl?

A. I think devitalisation will follow if there are frequent pregnancies whether there is early marriage or not.

Q. Is early consummation not one of the causes of the devitalisation?

A. It may be one of the causes.

Q. Would it not also hamper the physical development of the girl?

A. I do not think it does.

**Written Statement, dated the 9th August 1928, of Dr. A. L. NARAYAN, M.A., D.Sc., F.I.P. (Eng.), Professor of Physics, Maharaja's College, Vizianagram.**

1. Masses are utterly ignorant of the existence of any law in regard to the Age of Consent. I am afraid even classes are not aware of its existence. Certainly, social reformers and those who favour State legislation for redressing social wrongs are not satisfied with the provisions of the law now existing regarding this matter.

2. (2) Personally thinking, I am in favour of slightly amending the present law. The Age of Consent may be raised to 15 in the case of married pair and this for the following reasons:—

- (a) Girls under 14 becoming mothers are quite ordinary.
- (b) Death from first delivery is also becoming common especially in the case of girls under 15.
- (c) A sufficiently long interval between the period of attaining puberty and the first cohabitation is absolutely necessary, it being remembered that 12 is the average age when girls attain puberty.
- (d) If the legal limit be 15, a real attempt will be made by people to approach this limit.

3. I cannot say definitely in the absence of statistics. Moreover cases of abduction or rape outside the marital state won't be reported, such matters being settled by caste panchayats. Yet some cases are reported to the police. Judged by occasional trials of such in the sessions, cases of rape are common only in certain communities where such offences are condoned by a fine by the caste panchayat. The effective method of putting an end to such a violation of the law in this respect is the formation of vigilant committees in villages and towns. In the former, the village munsiff must be a member and he should be in close touch with the various panchayats.



4. (1) No. I have known instances where girls under 14 have become mothers.

(2) Public or social opinion rarely exerts itself in this direction, those knowing the law being busy agitating.

(3) No. Marriages after 13 are rare, confined to certain communities only.

The only step I can suggest is social legislation and rigorous enforcing of the law.

5. About 12. Yes; it differs slightly in different castes. The average may be taken as 12

6. (1) No.

(2) Yes. It is very common.

(3) Not rare.

No. Generally we don't find such cases coming to court.

7. There is no religious injunction to permit early consummation before or at puberty. But cohabitation immediately after puberty is partly due to a desire to beget a son to perform the obsequies of the father, lest he should enter the hell of "puth". Hence the son is called "Puthvan". This explains partly for the universality of marriage and the eagerness to beget early even while he is alive, a son.

8. The ceremony is confined to Brahmins and others who follow Brahminical rites. It is certainly done in general after puberty. But cases are known where the ceremony is performed by anxious husbands who want to take the girls to their home.

9. Decidedly no. At least, two years must elapse after puberty.

10. It differs in different communities. If the community is enlightened, the age of intelligent consent may be at 16. But, as a rule, the craze in India, to put it frankly, is to produce children.

11. Many cases where death has occurred in the first pregnancy.

12. I attribute maternal and infantile mortality mainly to cohabitation immediately after puberty, which, as I have already stated, is at the age of 12 or 13. But other causes also contribute to this evil. They are:—

(a) Ignorance of rules to be observed during pregnancy.

(b) Crude midwifery by barber women.

(c) Want of trained midwives, easily accessible.

(d) Unwillingness of even educated people to take cases to maternity hospitals where such exist.

(e) Seeking medical aid when too late.

13. Public opinion is confined to the intellectuals, the politicians and social reformers.

14. The educated and cultured women don't favour early consummation. But they are so few. It seems to me others certainly do favour.

15. I am not personally aware.

16. If it is raised to 16, the margin of error would be minimised.

17—19. It is for a lawyer to answer these questions.

20. Taking into consideration the anxiety of parents to have children for their children, it is better to legislate fixing the minimum age for marriage. This step would, I think, be welcomed by the public opinion.

21. Education and social propaganda have, in my opinion, failed to remedy social evils. I am of opinion that the enforcement of law and the awarding of punishment will effectively put an end to this evil.

**Oral Evidence of Dr. H. L. NARYAN, M.A., Ph.D., Professor of  
Physics, Maharaja's College, Vizianagram.**

(Vizagapatam, 4th December 1928.)

*Chairman:* You seem to be in favour of raising the Age of Consent to 15.

A. Yes.

Q. Do you think that is the age of intelligent consent?

A. I think I have said that intelligent consent depends on the community and the state of education.

Q. Would you make it 16?

A. Yes, I am in favour of it.

Q. You think legislation fixing minimum age of marriage would be more desirable than the Age of Consent.

A. Certainly that would be more effective.

Q. How can you say that it will be welcomed by the public opinion? Would that be welcomed by the orthodox section?

A. Public opinion means the advanced section—I mean educated public opinion.

*Dr. Beadon:* You say that many cases of deaths have occurred owing to early pregnancies. Would you mind telling us how many cases have come to your personal knowledge during the last 2 years?

A. I know more than half a dozen cases. I know actually several cases where girls have died on account of early maternity.

Q. What was the age of girls in those cases?

A. Between 13 and 15.

Q. Was it in the first labour?

A. Mostly in the first labour.

Q. Did they actually die as a result of first labour?

A. Yes.

Q. Were the girls well developed or were they weak?

A. I cannot say.

Q. Were those girls who died well off or were they poor girls?

A. Both.

Q. Were they more among the poor?

A. Yes.

Q. In those what about the children—did they also die?

A. In many cases the children also died?

Q. What caste girls were they?

A. There are instances in almost all communities.

Q. Were they Brahamans?

A. They belonged both to Brahaman and non-Brahaman communities.

*Mrs. Nehru:* You have said in your statement, paragraph 3, that extra-marital cases are settled by caste panchayats. Can you give me any instances of that?

A. In lower classes many cases of rape are condoned by the caste panchayats. They are not reported to the police.

Q. You say that cases of rape are common in certain communities. Could you give the names of those communities?

A. I do not know the names of those communities.

Q. Then you say that those who know the law agitate. What is the meaning of that?

A. All that I mean by that, is that, I am in favour of more agitation and public propaganda on this question. The law regarding the Age of Consent is not understood even by the educated men.

Q. Do you mean to say that they do not do any propaganda with regard to this law but they agitate for other things?

A. Yes.

Mr. Kadri: What is the minimum age of marriage which you would fix?

A. My personal opinion is that minimum age should be 15 because when once the marriage takes place we cannot prevent the husband and wife from coming together. In this connection I must say that one way for late marriage and late age of consummation is that there should be some sort of legislation that universities should not admit married boys.

Q. No legislation is required in that connection. Universities can do it even now. If you really feel about it you are an independent body and you can move in this matter.

A. Government are responsible.

Mr. Kanhaiya Lal: Are you aware that Allahabad has laid down that that after 1930 no boy will be admitted to the matriculation examination if he is married? Would you like to have a similar rule in this Presidency?

A. Yes, but sufficient time should be given.

Q. We have given two years.

A. That is not sufficient.

Q. The rule does not affect the boys who are already married.

A. I am in favour of giving 6 years. When our object is reform it does not matter if we have to wait for 6 years.

Mr. Kadri: In paragraph 3 you refer to cases of seduction being reported to caste panchayats. Are you referring to cases where the offenders and the offended belong to the same caste?

A. Yes.

Q. We are told by pandits that Sastras lay down that a husband should approach his wife within 16 days of first puberty. Is it so?

A. I am not aware of any such thing. I deal with these questions from a commonsense point of view.

Mr. Kanhaiya Lal: You recommend 15 for marriage and for consummation.

A. Yes.

Q. Suppose the legislature fixes the age of marriage at 12 or 14 what age would you recommend for consummation?

A. Nothing less than 15.

Q. Suppose the legislature fails to pass a law of marriage.

A. I have said that any law of the Age of Consent would be a failure.

Q. Can you suggest any measures for making it effective?

A. I do not think it will be effective at all.

Q. Are you aware that there have been cases of breaches of the law of consent by husbands which have been tried by the courts? The Inspector General of Police, Madras Presidency, has referred to such cases in his last annual report.

A. I have no faith in the police work.

Q. Are you aware that such cases have been brought to light and tried?

A. After all a few cases in a big country like this do not count for anything.

Q. Do you expect that these breaches of the law should come in volumes?

A. I know the law is broken in many cases and they do not come to light.

Q. Is it broken more largely?

A. Yes, that is in all communities. If the marriage of a girl of 10 or 12 and a boy of 15 takes place and if both of them are locked up in a room, how can we say that the law is not broken?

Q. Among Brahamans does consummation of marriage take place before 15?

A. In almost all communities there are such cases.

Q. What is the percentage of such cases?

A. I cannot say.

Q. Are these cases not very rare?

A. I think they more common.

Q. Are they more common amongst Brahamans and Vaishyas than amongst others?

A. Even among non-Brahamans I can point out many cases.

Q. Can you suggest any measures to bring these cases to light?

A. Except that there is a law regarding the Age of Consent, there is no way by which all such cases can be brought to light.

Q. If there is a law for registering marriages, will it help the authorities to know whether the law has been infringed?

A. I do not think it will serve any useful purpose. It will add to the number of registers.

Q. Why do you think it will not serve any useful purpose?

A. Suppose there is a register of marriages, I do not know how it will make the law of the Age of Consent effective. On the other hand I favour the idea of more propaganda.

Q. We want men like you to do propaganda work.

A. I am sorry I cannot do it.

Q. We are not against propaganda; but if we have registers of that character will it not facilitate the discovery of cases where a breach of the law is likely?

A. Personally I have no faith.

Q. Can you make any constructive suggestion to make the law more effective?

A. The only thing I can say is that there should be more propaganda. The second suggestion that I can make is that universities should move in this matter.

Q. Would you recommend the formation of vigilance societies in towns and in rural areas to look after and watch these cases.

A. If there is a law regarding the Age of Consent, I do not want to leave these cases of violation in the hands of the police. It will be better to leave them in the hands of vigilance societies. They will be helpful.

Q. Should these vigilance societies be communal or cosmopolitan in constitution?

A. I think in course of time all these differences will disappear. I think they should be cosmopolitan.

Q. Should they be of a voluntary character or should they be elected or nominated?

A. They should be voluntary committees. Either they should be entirely elected or entirely nominated.

Q. But they might be partly elected and partly nominated.

A. They should be more elected and less nominated.

Q. It will require a very large number of electorates and the expenses will be very great.

A. In fixing up the electorate you can fix the qualification of the voter in a way that the electors may be not very numerous.

**Q.** Do you think that these vigilance societies will act stringently or will not they be sympathetic with the husbands thinking that he is only exercising a marital right?

**A.** People will come to know from the very fact that there is a vigilance committee that they have to be careful.

**Q.** In other words you think the existence of vigilance societies will have an educative and moral effect.

**A.** Yes.

**Q.** Don't you think that the fear of punishment too will exercise a moral and deterrent effect?

**A.** I do not think so. I do not think it has had a similar effect all these years.

**Written Statement, dated the 11th August 1928, of M. R. Ry. B. YENKATAPATI RAJU GARU, B.A., B.L., C.I.E., Advocate, Vizagapatam.**

There has been an agitation in India for the last hundred years that social customs which offend the sense of humanity, or, pernicious for the national welfare, should be modified by Legislature; but all-along there has been vehement opposition in the country whenever an attempt is made by the Legislature to interfere with the age-long practices. Undaunted, Government passed the laws that are found necessary inspite of the cry that religion was in danger.

Hindus accepted the dictum that the institutes of Manu are appropriate to Kritayuga, the ordinances of Gautama to the Tretayuga, Sankha and Likhita to Dwapara and Parasara Smriti for Kaliyuga the present age.

Parasara rightly stated that the Kings of the earth are in this Kaliyuga enjoined to the dictates of justice. Hindus say quoting Brusaspati that Manu need not be implicitly followed in this age. Even Manu states that a well developed girl should be married. Speaking of the disparity of age between the bridegroom and bride, he states 36 and 12, 30 and 10 and 24 and 8 are allowable. Manu nowhere states that girl should be married before attaining puberty, for which there is no authority in Manu though later writers even stated that Kanva was one who was aged ten. Kulluka Bhat, expositor of Manu, states that marriage of the girl should precede puberty. That shows the gradual change of opinion by the date of the commentator. Gautama says (745) Pradanam pragrutoh-Haradhathamithas-hara:—"pradanamiti. ruthudarasanaath pragevadeya kanva." Which means the girl should be betrothed (engaged) before she attains puberty. In all marriages there would be pradanam ceremony which is fixing up the marriage. If there be mishap in the interval the girl would be saved life long misery.

The orthodox people to save themselves from the superstitious fear of Bhrunahatya, might fix up the marriage before attaining puberty and after attaining puberty she might be married and some interval might be given for consummation. If the validity of marriage is made to depend on the bride attaining the age of 14, even the orthodox can settle the marriage beforehand and marry the girl at 14, consummation taking place some time later. After all there are thousand and one transgressions which were made by the Hindu householder but he is not afraid of incurring sin thereby. Therefore I do not see why a salutary law be not introduced for the good of the people themselves.

Gautama states that if childless widow is anxious to beget children she may do so with the permission of the elders. That is not now followed at all. Moreover there is no question of outcasting a person for not marrying his daughter before puberty or outcasting the husband for marrying the girl after attaining puberty. No Smriti enjoined such

a course. Hence all this orthodox opposition is a mere mockery in the face of their daily conduct quite in opposition to the Smriti rules. No Brahman should serve the Government according to the Smritis. That is greater sin than marrying a girl after puberty. Do they care for such injunctions? The orthodox opposition is a selfish affair. All these rules which affect them are thrown over-board while insisting on observances of rule which affects voiceless children. It is a fit case where the Government should interfere.

Yagnyavalkya Samhita says one should marry a maiden untouched by another 'Ananyapurvika.' He provides punishment of marrying a promised maiden to another. Harita states that one should marry a maiden of a different family endowed with auspicious marks, perfect limbs, and good character. Usana Samhita mentions maidens who have been engaged by words but not married showing thereby that there could be an interval of some years before marriage after pradanam, but he spoke of penance for variety of sins, but never spoke of marrying a girl after puberty as a sin at all. It is Yama who said in his Samhita that the father who does not give away his girl in marriage after she attained the age of 12 commits sin and one marrying her is not fit to sit in a row for meals with other Brahmans. He even prohibits men eating with unsurers, etc. This Samhita is not followed to the letter anywhere. Atri prohibits feeding cheats, black men, one who creates dissensions, one short of limbs. All these are intended to be ideal state of things but never enforced. Likhita only objects wedding a girl without an uterine brother. Vyasa speaks of a marriage of a girl 'gouri' which has been differently interpreted as "fair coloured" or "eight years". He also speaks of marrying a girl before puberty. Whether it refers to pradanam or marriage is not clear.

- Vyasa speaks of marriages outside caste and hence his injunctions are out of date. Parasara speaks of marrying a widow. After all whatever be the old rules the civilised state can and ought to limit individual caprice when it is against national welfare and is inconsistent with natural rights of innocent young children, for public welfare is an indispensable object of policy and its promotion is undoubtedly the chief duty of the State. If we convince that Shastric law is different from the traditional usage, orthodox people prefer usage to any Smriti. When Madras Regulation of 1830 was passed on 2nd February 1830 the Government stated in the preamble that the measures hitherto adopted to discourage and prohibit Sutee or burning or burying alive the widows of Hindus, have failed of success and Government felt the necessity of abolishing the practice altogether, but stated that without intending to depart from one of the first and most important principles of the legislation of British Government of India that all classes of people be secure in the observances of their religious usages so long as that system can be adhered to without violation of the Government dictates of justice, and humanity, has deemed it right to pass the law of declaring Sutee as illegal and punishable.

The Caste Disabilities Removal Act 21 of 1850 enacts that law or usage which inflicts forfeiture of or affects rights on change of religious or loss of caste shall cease to be enforced as law in British India. No other law brushed aside the tenets of Smritis as this one with a stroke of a pen, though it was urged that Hindu rule of inheritance rest on an essentially religious basis while the enactment upholds that caste degradation is not in itself a ground of disinheritance; Act V of 1843 was passed declaring slavery illegal and unenforceable in India.

Act XV of 1856 was passed legalising widow marriages inspite of strenuous orthodox opposition though Parasara permitted widow marriage in Kaliyuga. Act 20 of 1841 repealed by Act 27 of 1860 but Sections 12 and 17 of the Repealing Act distinctly recognises Hindu wills though it was not heard of under Hindu Jurisprudence.

The Foreign Marriage Act XIV of 1903 legalises marriages of British subjects of India outside India though neither the Bride nor Bridegroom professes Christian religion.

Hindu Disposal of Property Act 15 of 1916 permits transfer of property inter vivos or by will for the benefit of unborn persons within certain limits.

The Majority Act 9 of 1875 raised the period of minority up to 16 under Hindu and Muhammadan Laws to 18 in some special cases to 21.

British charters direct that as well with regard to matters of contract as of inheritance and succession between Indians, the Indian Law shall determine. But the Indian Contract Act 9 of 1872 enacted fresh rules on the usual ground of expediency.

These Acts are referred to here to show that the Government did not hesitate to modify the existing law inspite of opposition.

If one has to observe to the minutest details according to the injunctions of the Shastras, the result would be privileges for the few and inhuman treatment of depressed classes, cruel curtailment of the freedom of women for selfish purposes of men. The real trouble is the mistake we make between essentials of religion and non-essentials, Sidhantam and Acharam. In the case of non-essentials rules were ever changing to suit the times. The king unhesitatingly modifying the rules in non-essentials in the Hindu Period; essentials are those which are self-evident truths which are universally applicable "God, Soul, Material world, and their interrelation". While non-essentials are social codes which have been everchanging and being changed suited to the locality and times, and while eternal laws of evolution Sidhantam do not change at all, while social customs are different in different localities and at different times. We are fighting for the freedom of women in so far as it would be helpful to ameliorate their lot while preserving chastity and purity of women. For which purpose we should not hesitate in bringing out such reform as would be necessary to secure happiness to them which is sure basis for national welfare.

Law should escape the numbness of death but keep step in the development of life. Law cannot impose conditions contrary to the nature and the needs of mankind. Chronic maladies must be cured by appropriate modifications of law. Law should help striving humanity to ameliorate their condition when they cannot help themselves.

Large number of thinking section of Brahmins told me that they are in need of shelter of law to brush aside the customary practices which are really injurious and their continuance is a real menace to national welfare. Following the evil example of Brahmins several other communities heedlessly marrying their children very young. The State is bound to take interest in advancing and maintaining the welfare of family life. Polyandry confuses descent and hence is prohibited and similarly polygamy produces discord and unhappiness and hence State should help to minimise the evil effects of polygamy as it debases the wife and in its reaction degrades the husband.

In all civilised countries restraints are placed upon marriages in the interests of public welfare. It is true too many restrictions instead of hindering promote the birth of illegitimate children who are naturally ill-fed and ill cared for.

To defend the purity of marriage, conjugal fidelity should be insisted on both the husband and wife indirectly by giving relief to the injured party whenever necessity arises. The influence of women on kings, statesmen, politicians, reformers and the orthodox is immense. To secure healthy influence they must be educated. Early marriage hinders imparting sufficient education to women. It cannot be denied that the gentleness of woman softens savage humours of men and her prudence prevents extravagance, her courage and patience helps to reduce the rigour of adversity, her unselfish devotion encourages men for self-sacrifice for laudable purposes.

When women are given political freedom it is absurd to deny her social freedom consistent with purity and chastity.

*Replies to the Questionnaire.*

1. There is dissatisfaction with the existing law as to the age of the girl fixed by Law prohibiting intercourse within the marital state, or outside.

2. Cohabitation with immature girls has been the frequent source of increase in infantile mortality and deaths of innumerable girls in childbirth and necessary physical deterioration of the offspring of such unions. It serves no useful purpose to reiterate as the orthodox do that the last word on morality and wisdom was uttered by our ancestors, some centuries back when we see with our own eyes what dire consequences early marriages lead to. I understand from the attitude of the government that they had no objection to raise the age to 14 in marital relation and 16 in non-marital relation.

Susruta the greatest authority on medical science of olden days says that when a man aged 25 causes a girl less than 16 years of age to conceive, the embryo dies in the womb, and it is morn it will not survive long, and even it lives its body will be void of strength. Therefore a man should not cause a girl who has not attained to the age of 16 years, to conceive.

3. Cases of seduction or rape may not be many on account of suppression of real state of things in many cases. But there is slight improvement in non-marital relations. In southern India there is a special class of prostitutes as Devadasis or Dancing girls who are generally willing to sell themselves for money for promiscuous intercourses. In their case ordinarily consummation in the first instance Kannerakam used to be publicly known as is in the case of marital relations. Of late this was done surreptitiously to avoid the penal provisions. If the age is raised to 16 the girl would be in a better position to accept or reject the gilded degraded condition. There is an attempt amongst their community to ameliorate their condition by giving up prostitution and enter into marital relations.

The proposed amendment of increasing the age to 16 in non-marital relations would be of immense help to them. Besides this, in ordinary cases of prostitution apart from non-consent force, etc., discretionary age of 16 will be of some use for the girl who wants to lead an immoral life to consider pros and conses of her unwise and venturesome step of going astray with a person who is not her husband, either for the sake of money or on account of inordinate passion. If the age is extended to 16 the State is offering her protection for two more years. It may be argued, why not extend it to 18 years till she attains the majority? Personally speaking it would be highly beneficial. But easy gradation is more helpful to carry the public opinion with us than violent changes all on a sudden which may react. After gaining experience I am sure, increase of age to 18 in non-marital relations will be adopted.

4. The amendment of 1925 is a thin end of the wedge and is helpful in postponing the consummation or nuptials till after attaining the age of puberty which in 70 per cent. of cases will be 13 in tropical climate. The public opinion also is favouring postponement of consummation. In some cases marriages are postponed beyond 18 while starving the girl to secure emaciation so as to help postponement of attaining the age for want of suitable matches. My idea is if law is introduced that if the age of the bride is less than 14 the marriage is void and of no legal effect, there would be clear advantage of the marriage being postponed till 14 by which time the girl will be better educated. In course of time I am sure people will support raising the age to 16 years even. At the present moment I would support 14 in marital relations for marriages as well as consummation. I do not like the idea of a husband being prosecuted for cohabiting with his wife after she attained puberty.



In most cases husband and wife live together and love laughs at locks and naturally there would be intercourse either openly or surreptitiously which will never be reported to the police by one or the other of guilty parties or by their relations. In case the Government finds it difficult to declare the validity or invalidity of marriage by fixing the marriageable age of girls, as an alternative, I would suggest that the consummation even be prevented till 14 by raising the Age of Consent to 14. Even the orthodox might settle marriages before the girls attain puberty and celebrate the marriages only after they attained 14 years. It is not only Shastric but also helpful in every way.

5. The usual age is 13 though in some rare cases 12 and some attain puberty at 14. About 70 per cent. roughly attain age at 13 and about 10 per cent. in 12 and 20 per cent. in 14. There are attempts made either to postpone puberty in some cases to her proper matches while in the class of prostitutes or Dancing girls they precipitate matters to secure early earning.

6. After the amendment of 1925 cohabitation before puberty is not known though grown up man marrying second or third time a young girl, may do so secretly. If the star is good, soon after puberty consummation is made; else it will be postponed for few months. Consummation takes place generally when the girl attains puberty without reference to the age. After all it is very difficult to distinguish the age of girl between 12 and 13. I have not come across any case in court, but I now and then hear of consummation, soon after the marriage whether the girl attained the puberty or not.

7. The practice of early marriage amongst Brahmins is mainly due to traditional practice on account of some injunctions in Smritis, though others contend they are interpolations. Yagyavalkya states that father, grandfather, brother and mother should perform the Kanayadanam else whenever a girl has menses the aforesaid persons will incur the sin of Bhrunahatya. I think the orthodox must be satisfied if marriage is fixed before the girl attains puberty while postponing the marriage till she attains the age of 14 and consummation some time later on. There is no direct authority to my knowledge that consummation should take place at any particular period except inferentially. In marriage ceremony itself, Samavesam means consummation. Now-a-days it is being done figuratively if the girl is not attained puberty. This is another clear indication that marriage should take place only after puberty.

8. Garbhadanam ceremony is invariably performed in all higher castes and some time in lower castes. It is generally performed within 6 months after she attains puberty. There are cases where it is postponed for a year or more.

9. If ideal state things is to be talked of 16 years is the proper age for consummation if not 18. As there is danger of girls going astray and boys misbehaving, I would put the figure at 16 in marital relations. If 18 is good in cold countries 16 is good here. I am not quite satisfied with the western method of postponing the marriage till the girl grows old when we see the consequences thereof; I advocate that 16 years may be taken as the proper age. In individual cases it may be postponed but generally speaking consummation at 16 will bring no harm.

10. I take it 16 years is the proper discretionary period, but in cases of marital relations husband and wife will not think of future consequences but think only of immediate pleasure.

11. Our emaciated school children and mortality returns deaths of infants of 1 year old, deaths in childbirth, sickly children, premature death of young ones, all unmistakably show that early consummation of marriage is the direct cause of all these evils. In communities where early consummation is not prevalent we find healthy children and longevity of mothers.

12. Of course. Stunted growth of the nation physically and intellectually is due to early marriage.

13. The public opinion is veering round for the extensions of the Age of Consent.

14. Excepting old women all educated women favour postponement of consummation. Uneducated women still linger to the old theory of Karma and prefer early consummation in families who are opulent and blessed with few children.

15. To fix the age of girls the parents or guardians should be compelled to obtain copy of birth register from the village Munsiff, or from the Municipality within a year after the birth of a girl, by law.

16. When the age is raised to 14 there will be sure indication how long before the girl attained the puberty.

17. I do not want the offensive name of Rape to be applied to the intercourse between husband and wife within the prohibited period. Separate offence as *illegal intercourse* may be defined and punishment of fine may be awarded instead of imprisonment. In non-marital relations punishment may be imprisonment, or fine or both.

18. In both the cases there should be trial by jury. In the case of husband and wife sanction of the Collector should be obtained before prosecuting the offenders. It should be bailable and non-compoundable. In non-marital relations no previous sanction need be obtained but the police investigating officer should be circle inspector and the offence should be made cognisable only on receipt of complaint in writing by somebody who is prepared to speak to his allegations in court so as to avoid unnecessary harassment by the police.

19. What I suggested above will suffice.

20. I prefer fixing the minimum age of marriage at 14 and leave consummation to the good sense of parents and married couple for the present. If that is not fixed at all or fixed below 14, I would prefer to have the consummation fixed at not earlier than 14 in marital relations. Orthodox prefer postponing consummation and several would like to have the marriageable age of the girl fixed at 14 so as to save them the odium of postponing marriage till puberty, taking shelter under law as they are anxious to postpone marriage. If once marriage is postponed till 14 in course of time it will be extended by the parents to 15 or 16 or even 18 until proper match is secured. At present parents are suffering much to secure husbands for their girls unless they pay large sums beyond the means of the party on the ground that they are bound to marry before the girl attains puberty.

21. I have lost faith in securing tangible results by education or social propaganda though they have their own uses. Legislative enactment is the only panacea of the existing evil.

I am sure when girls are well educated they would rebel against many traditional practices. It takes long time as the number of even the male literates is very small. In the name of justice and humanity Government should undertake legal measures to prevent misery and unhappiness of thousands of girls in India.

**Oral Evidence of Mr. B. VENKATAPATI RAJU GARU, B.A., B.L.,  
Advocate, Vizagapatam.**

(Vizagapatam, 5th December 1928.)

*Chairman:* How long have you been an advocate at Vizagapatam?

*A.* For about 32 years.

*Q.* What community do you belong to?

A. I am Kshatriya, Rajput.

Q. I suppose in your capacity as advocate and otherwise you know a good deal of inner life in the villages?

A. Yes.

Q. Which are the communities here amongst whom pre-puberty marriages are in vogue and are considered essential?

A. Among Brahmans and Vaishyas they are considered essential but other communities also, following the example of Brahmans have adopted it.

Q. Would you say that a large proportion of the population, Brahmans and non-Brahmans, go in for early marriages?

A. Yes.

Q. I understand that in the case of non-Brahmans including Vaishyas it is not essential but yet there is early marriage amongst them.

A. Yes.

Q. What do you think is the minimum age of marriage among non-Brahmans?

A. Amongst Sudras there are cases where they marry when the girl's age is 6 or 8 years but among Brahmans now I do not think they are marrying, except in rare cases, before 10 or 11. Excepting the educated Sudras there is widow remarriage in all other communities.

Q. In what community there is no remarriage?

A. Brahmans have no widow remarriage. Among Velamas and some classes of Sudras for instance Kapoos, there is no widow marriage.

Q. Where remarriage is not permissible, they go in for late marriage?

A. Yes.

Q. What is the age of late marriage?

A. About 9 or 10.

Q. You have said that there is a large number of Brahmans even who have felt that the customary practice of pre-puberty marriage is really injurious and but for the social trouble they would like to have it otherwise.

A. Yes. Excepting the orthodox section, educated Brahmans prefer to have something to help them to marry their daughters after the attainment of puberty.

Q. Are there any Vaishyas who have that sort of idea?

A. Educated section of Vaishyas also think but they are not very many.

Q. Among the Brahmans and Vaishyas the advanced wing must be very small.

A. Yes.

Q. For the present are you content if the law penalising marriage below 14, is passed leading up eventually to 16?

A. Yes.

Q. Is it a fact that consummation takes place both among the Brahmans and Vaishyas and amongst those who have pre-puberty marriages, without any reference to age but soon after puberty?

A. That is usually the case except when there is a bad star which requires postponement for 3 months.

Q. Have you reason to think that there are cases where consummation is effected before 13 or 14 or 15?

A. Of course as soon as a girl attains age, consummation takes place in almost all cases.

Q. Do you think there are some cases where the law as it stands is broken?

A. In rare cases when old people marry a second time or third time then they do not wait.

Q. When do girls generally attain age?

A. About 13.

Q. Then consummation at 14 or 15 is common.

A. Yes.

Q. Can you suggest any remedy by which marriage may be performed at any time—even pre-puberty—but intercourse may be effectually prevented till about 15 or 16?

A. Unless you penalise marriage below 15 or 16 it is not possible. It is not possible because in most cases husband and wife live together after marriage and the notion is that they can live together. I do not think it is possible unless some stringent steps are taken to punish the offenders and it is not necessary to go to that length.

Q. Would you therefore have a law penalising marriages?

A. That is better and if the Government are not prepared to enact any such law I suggest that the age of consent might be increased to 14 at least.

Q. If there is no marriage law would you put the consent law a little higher than 14?

A. It may be good in that sense but in its actual operation I do not think it will have much effect unless you bring pressure in bringing cases to light.

Q. If we have the Age of Consent law only do you think that raising the age to 14 would possibly bring more cases to light?

A. When we raise the age to 14 it necessarily means that in 90 per cent. of cases consummation will be after puberty. Between 12 and 14 the margin is so small that no one can distinguish what is the age.

Q. Are there many cases of concealed puberty?

A. Not many but there are few cases in these prohibited classes.

Q. But yet nobody takes any serious notice?

A. They simply connive at it.

Q. Is that so in the villages also?

A. In village the orthodox section marry them before puberty.

Q. In the villages do the neighbours connive at it or do they make it difficult for the parents?

A. In the orthodox families they would not keep the girl at all but in the educated classes they keep it concealed.

Q. What do you mean "they would not keep her"?

A. They will manage to marry her.

Q. Even in the orthodox section are there some concealed cases?

A. They are rare cases.

Dr. Beadon: You say in answer to Question No. 9 that there is a danger of girls going astray so I would put the age at 16. Do you really think that there is a danger of girls going astray if they are kept unmarried up to 16 or is it only an apprehension?

A. Up to 16 I think there is absolutely no danger and in some cases of Rajput community we do not marry before 16.

Q. But if the girl is kept beyond 16 you think there is a real danger?

A. Yes, unless she is properly educated.

Q. Have you met with any cases in which girls have been kept unmarried after 16?

A. We have cases where girls have been kept unmarried till after 16.

Q. Do you find in these cases that the girls have gone wrong?

A. They may occur but such cases do not come to public notice. Parents feel that it is a burden to keep the girl; they have always to watch her.

Q. Can you give us any definite instances within your own knowledge in which the girl mothers suffered?

A. There are several cases in which consummation took place early and they begot children, and either the mother died or the child died.

Q. In the last 2 years how many cases have you known of mothers dying?

A. I have not taken statistics but I know a case of a mother dying during the first child birth.

Q. What was the age of the mother?

A. She was 14 years at the time of delivery, consummation having taken place between 13 and 14.

Q. What class did that girl belong to?

A. That was a case among the Rajputs.

Q. Were those people fairly well off so that they could afford food and medical attendance or were they poor?

A. They were rich.

Q. What was the age of the husband in this case?

A. About 18.

Q. Did the baby in this case survive?

A. The child also died.

Q. Do you know of any other case?

A. There was another case in the Rajputs. The girl at the time of delivery was 13 or 14 and during delivery she died. In this case the child survived and is progressing well.

Mrs. Nehru: You have said in your statement that several sections of the Brahmans have told you that they want shelter of the law. Can you tell me which particular class they belong to?

A. Most of them are lawyers and they all pressed me to press this point on the Committee.

Q. I do not think there is much difference among Brahmans in this part of the country.

A. All English educated people prefer some law.

Q. You advocate the raising of the extra-marital age to 16 although in your opinion 18 would be much better. What is your reason for fixing it at 16 and not at 18?

A. I am thinking of Deva Dasis. If we put any such drastic restriction that you ought not to have to do anything before 18, the girls will do it surreptitiously and break the law.

Q. But if the present Bill before the Madras Council is passed for the stopping of dedication of Deva Dasis then this question does not arise.

A. Deva Dasis are a special class and they need some legislation.

Q. Have these Deva Dasis got their own property?

A. Yes.

Q. Do you mean to say that they earn their livelihood by means of prostitution?

A. Yes, property is earned by the prostitution of their mothers.

Q. I thought they were given property when they were dedicated to the temple.

A. Temple property is very very little.

Q. You have referred to people who starve their girls to postpone puberty. Can you tell me among which class or classes of people it is prevalent?

A. That is among Brahmans. They have themselves told me that in order to get a proper match they have to starve their girls.

Q. You say that marriages before a certain age should be declared invalid by law. Do you think that this will meet with the approval of the general public?

A. There will be a vociferous public which will raise a hue and cry. But if we consider that a thing is necessary in the interests of the community and the nation, it should be done.

Q. Do you not think that making it penal by punishing the parents would meet with public approval?

A. It is not a question of punishing people at all. The marriages should themselves be declared invalid.

Q. Do you not think that the fear of punishment would deter them?

A. I do not think that anything can be effective in this except making marriages invalid. If there is punishment only they would say that it does not matter once marriage has taken place.

Q. Do you not think that if marriages are declared invalid, there is a likelihood of the children becoming illegitimate?

A. I do not think that the girl will have children before 14.

Q. If the marriage takes place before 14, and the girl gets a child at the age of 16 or later, the child would become illegitimate. Do you not think so?

A. But my point is that the initial mistake itself would not be committed by them. If the law says that they cannot marry, they will not marry.

Q. Do you think that it can be stopped like that all of a sudden?

A. Yes. I might point out that more drastic laws have been passed in previous years.

Q. You have suggested that the parents or guardians should be compelled to obtain and keep a copy of the extract from the birth register from the village munsiff. Why do you want it?

A. I want it for the purpose of proving the age of the girl at the time of marriage.

Q. Should the parents get a licence at the time of marriage?

A. I do not think that any licence is necessary.

Q. How will the certificate be used?

A. It can be proved that the marriage has not taken place before the age fixed.

Q. The certificate will not be useful unless the fact is disputed.

A. It may not be useful for that particular purpose. It might be useful for several other purposes.

Q. Supposing parents do not do so, would you like to make it penal?

A. I do not want to make it penal; I only want to help them by asking them to keep a copy; so that it might be useful to them in case of need.

Q. In paragraph 17 you say that the punishment can be fine only instead of imprisonment as it is now. Can you give us details of the nature of the punishment you want?

A. I think it should be fine only.

Q. Would you have fine only irrespective of the age of the girl?

A. What has the age got to do in these cases. It is enough that the law is transgressed.

Q. At present the law differentiates between the age of the girl, and below 12 the offence is considered more heinous, and the punishment is 10 years' imprisonment or transportation and above 12 and below 13 it is two years. Would you keep that differentiation?

A. I do not want that the husband should be imprisoned at all.

Q. Supposing the husband is 30 or over, and the girl is 12, would you still punish the husband with fine only?

A. In marital relations, whatever be the circumstances, I do not want that the husband should be sent to jail, unless the connection has brought about serious consequences, as for instance the death of the girl. But in that case I would take advantage of other sections in the Penal Code and punish the man.

Mr. Mitra: Have you got experience of orthodox people in the villages also?

A. Yes.

Q. Do you think that there are many people who really care for these injunctions? Do they consider that it is a sin to marry girls after puberty?

A. There are certain orthodox families who think so. But they themselves transgress the injunctions of the Smritis in many ways.

Q. How do you think they transgress the laws of the Smritis?

A. In spite of their saying so, they do not care at all for the Smritis. In their daily conduct they have to perform certain things, and observe certain rules, but these things are being neglected now-a-days in the most orthodox families. For instance, one such rule is that they should not accept Government service, but the Brahmins do accept them.

Q. Was not Chanakya a minister?

A. Even great men might sometimes commit mistakes, but that does not mean that we should follow them in their mistakes. In the Smritis there is an injunction to the effect that Brahmins should not accept service under Government. I therefore say that transgression of the law is very prominent.

Q. As regards the infringement of the law of marriage, what punishment would you suggest if the law fixing the minimum age of marriage is broken?

A. The marriage should be invalidated.

Q. Do you realise that amongst Hindus, if you declare the marriage invalid, the girl cannot remarry? The children will be illegitimate and they cannot inherit. Have you therefore considered all the consequences that would follow from declaring the marriage invalid? The question was considered by the Select Committee on Sarda's Bill, and they thought that considering that there were difficulties in the case of the Hindus, marriages should not be declared invalid.

A. I have taken all this into consideration. If the law declares marriages invalid, there may be stray cases where the marriage might be performed in spite of the law, but 99 per cent. of the people will not perform them for fear of their being declared invalid. As for the question of girls remarrying, there have been many instances where girls have been kidnapped, but yet have been remarried.

Q. Do you think that there will be many cases of marriage before the prescribed age amongst the orthodox people even though the law might be there?

A. I do not think there will be many. They will not like to take the risk of marriages being declared invalid, and the children becoming illegitimate.

Q. Are you in favour of granting exemption in particular cases in case you have a marriage law?

A. In matters like these, I do not think you should make distinctions between one caste and another. The orthodox people saying that this would be going against their scriptures is mere bluff. In fact in their daily conduct they are mostly going against the scriptures.

Q. Will it not be said that we will not be justified in saying that because a man committed 99 wrongs he should commit the hundredth also?

A. I am not putting it on that ground. I say that we should do this in the interests of national health, and thereby we would be helping our women.

Q. In talking of extra-marital cases you are talking of discretion. Do you think that girls who are not prostitutes but who are by circumstances induced by other people would have sufficient discretion at the age of 16?

A. I think they will have sufficient discretion at 16.

Q. Do you not think that 18 would be better as it is also the age of discretion?

A. I think you ought to take other things into consideration when the age is fixed. Considering the climatic conditions in India, I think girls are fully developed at 16, and you ought not to restrain them.

Q. Do you not think that it is only in marital cases that we should take into consideration the development of the body, but that in extra-marital cases it is the development of the brain that is needed, so that the girl might be able to realise the consequences of her action?

A. I do not think there is much difference between 16 and 18. Formerly according to Hindu Law the age of discretion was only 16.

Q. You want to go gradually. But it is said that frequent changes in the penal law are not good in principle. Moreover, if there is any chance of the masses or any particular community objecting to it, we must proceed gradually. But this is a matter on which there can be no objection from any community or any section of the public. What is then your objection to raising it once and for all?

A. There are certain cases in which nobody can come forward and say that he objects. In cases like this the person interested will not come forward and say that he objects to it. I think that fixing the age at 16 would afford sufficient protection to the girls.

Q. You suggest 14 for marriage as well as for consummation. Supposing there is no marriage law, what will you have for the age of consummation?

A. I put the age of consummation at 14, so that it might meet with the least amount of resistance. The opposition will be more if the age is 15 or 16. Also I think that if we fix the age at 14, we cross the Rubicon.

Q. The orthodox can have objection to marriage law, but do you think that they will object if the age of consummation is fixed at 16?

A. I do not think they can have objection, because they themselves transgress the injunction in this respect which says that consummation should take place within 16 days of the first menses; otherwise there will be the sin of *Bhrunahatya*.

Mr. Kadri: To what caste do you belong?

A. I am a Kshatriya.

Q. Do you come in close touch with all classes of people?

A. Yes.

Q. You say you have had an opportunity of talking over this matter with many educated Brahmins. May I take it that your views represent the views of a large number of educated Brahmins?

A. I mean educated in the sense of English educated.

Q. Do you think that those who are not English educated would be against legislation of this kind?

A. They want no change. Even if you want to bring about any change according to the *Smritis* they would object to it.

Q. From your statement may I take it, that you are satisfied that there is no injunction enjoining marriage before puberty?

A. Yes; excepting the later interpolations.

Q. You say that 16 would be the ideal age for consummation of marriage, but you yourself recommend 14. Why do you do so?



A. It is by way of least resistance. I personally would have it at 16, but there would a hue and cry if we suddenly raise it. When the age was fixed at 12 there was a hue and cry, and the same thing happened when it was raised to 13. We should therefore proceed gradually.

Q. But it is said that piecemeal legislation in penal code is not advisable.

A. That may be a perfect view, but I do not agree with that view. I think that in these matters it is far better to take the line of least resistance. After all there will not be much difference if you fix the age at 14. People will come to be gradually satisfied, and we will also be complying with the Sastras because the betrothal can take place previously.

Q. What do you mean by this betrothal?

A. By betrothal I mean the pradhanam ceremony which is the fixing of the marriage. In this case supposing a mishap happens, the girl can marry again. Otherwise you are bound to give the girl in marriage to the man fixed. The idea of marrying young girls before puberty seems to have come in after the Muhammadan invasion when they thought that girls would be safe if they are married. I am talking about the invasions about 1,000 A. D.

Q. Is there any authority for the proposition that this Muhammadan invasion was responsible for early betrothal and early consummation?

A. In the old days girls were married only when they were well developed, and there was consummation on the fourth day of marriage. This is called the Samavesam ceremony. We do it even now figuratively. It is therefore certain that marriages took place only after puberty. I might say that it is historically deducible that most of the Smritis were written in the 11th century after the Muhammadan invasion which took place about 1,000 A.D. I do not want to suggest anything against any community, but these early marriages might be due to one reason or other, just as in the case of Purdah which the Muhammadans say was copied from the Hindus, and the Hindus say they copied from the Muhammadans.

Q. In paragraph 2 you say that you understand from the attitude of the Government that they had no objection to raise the age of consent to 14 in marital relations and 16 in non-marital relations. How do you understand it?

A. When I was a member of the Legislative Assembly in about 1923 a resolution was moved fixing the age of consent in marital cases at 14, and non-marital cases at 16, Government not choosing to oppose it. I base my remarks in the statement on some observations made by Sir Alexander Muddiman in the Assembly on that occasion.

Q. You say that marriages should be declared invalid in case they are celebrated before the age fixed by law. Do you not think that this would be too drastic a step?

A. It is the only method by which you can save the girls. I know of instances where more drastic laws than this have been passed, for instance the inheritance law, and the law about losing caste. In the Smritis also it is stated that under certain circumstances the King must intervene and pass laws.

Q. In your paragraph 15 you refer to parents being compelled to produce extracts from the birth register. Do you not think that it would be a hardship?

A. There are so many instances where we are compelled to produce certificates of births, for instance at the time of examinations. It is only with a view to minimise trouble that I have suggested certificates in case there is any dispute about the age of the girl; and it would be a protection for the father himself.

Q. Do you not think that getting a copy would be sometimes difficult especially to poor peasants living in villages?

A. The people who marry before the age fixed would be very small, because the non-Brahmins would not marry before that age as they marry their girls only after puberty. Therefore there will be no excuse for them to marry girls early. As for the rest, they have only got to take a copy from the registers maintained by the village munsiff. I do not think it will be a hardship.

Q. In this connection would you like to have marriages registered?

A. I do not think it is necessary. But I have seen that marriages are registered in other countries where there are Indians, for instance the Fizi islands. They have to pay 2 or 3 rupees as registration fee.

Q. Cannot you make registration of marriages free as in the case of births and deaths?

A. But the difficulty would be to get the correct age. I think that an extract from the birth register would serve the purpose better. Even now the Indians complain about the registration of marriages. I think there will be a similar complaint here also.

Mr. Kunhaiya Lal: Is there any provision in the Hindu Law rendering marriages invalid under any circumstances?

A. I have not come across any such instances. But I think inferentially that some of the forms of marriages which have been condemned, for instance Paisacham and Rakshasam, are marriages which are declared invalid.

Q. You say you want to work along the line of least resistance in order to carry public opinion with you. Do you think that your suggestion that if the marriage is celebrated before the age prescribed it should be declared invalid will not rouse considerable opposition, and  
• resentment?

A. I do not say that you should give retrospective effect to the law. I only say that if you enact a law and say that marriages ought not to be celebrated before a particular age the law will be obeyed, and the transgressions of the law will be few and far between.

Q. Your object is to prevent marriages before a certain age. Will not that object be served by punishing the parents of the bride and the bridegroom where they are minors?

A. It will not be served in this way, because they will celebrate the marriage all right. The only question then will be how to escape the clutches of the law and they will try to find out means. Secondly nobody would bring forward such cases.

Q. So far as the question of hushing up of the affair is concerned, we might have a system of registration of marriages by which it can be found what marriages are against the law, and we can punish the persons who are really responsible for the celebration of the marriage. But if you make marriages invalid you punish people who are not really responsible for the marriage, but are under the control of their parents.

A. We do not punish them. We only try to prevent such cases and they will be very rare.

Q. If you declare marriages invalid, the result will be that the children will become illegitimate.

A. I do want that there should be one or two such instances so that they might serve as a lesson to others.

Q. If the marriage is declared invalid, the children will become illegitimate, and will lose their right to the property of their parents. You bring this about for no fault of the boy or the girl, but for the fault of the parents. Would you not therefore recommend that instead of punishing the boy and the girl and the issue who were not really responsible, the parents who were really responsible for bringing about the marriage should be punished?

A. My own personal view is that it is far better and less onerous and most convenient for the community to declare the marriages invalid. Of course there might be one or two hardships, but that cannot be helped.

Q. Would you leave the parents unpunished?

A. There is no question of punishment at all in what I suggest.

Q. Do you think that there are some injunctions in the Sastras which are mandatory and some which are recommendatory?

A. I would call them essentials and non-essentials. The non-essentials should change from time to time.

Q. What about the injunctions about marriage in the Smritis? Are they mandatory or recommendatory?

A. In the Smritis they never speak about marriages. They simply say that marriages should be fixed before puberty. It is only the commentators who say that marriages should be celebrated before puberty.

Q. You further say that wherever there is a reference to marriage it is a reference to betrothal.

A. I refer to the Pradanam ceremony which is the fixing of the marriage.

Q. Is it the same thing as Kanyadanam?

A. Pradanam is only fixing up marriage. In the Smritis it is definitely stated that if a mishap happens in the meantime the girl can be re-married.

Q. Do you mean to say that what Gautama states relates only to Vagdan?

A. Yes; there are rules about what should be done in the interval.

Q. You say that no marital cases should be tried without the sanction of the District Magistrate. Do you not think that there is a danger of the evidence disappearing, or the sanction being utilised for purposes of blackmailing?

A. That is the very reason why I recommend the sanction of the District Magistrate.

Q. Is there no danger of the evidence being suppressed?

A. How will the evidence be forthcoming in the case of ordinary trials? The same thing can be done here also.

Q. Do you not think that the sanction will be used for blackmailing purposes?

A. You can make a general provision as to who should prosecute. You can make a provision saying that prosecutions should be made by Government.

Q. Would you be satisfied if the offences are made cognizable by the police with the condition that the enquiry should be made by a gazetted officer?

A. The District Magistrate's sanction should always be necessary. I would not leave it in the hands of the police. My opinion is that the District Magistrate cannot have both the preliminary enquiry and the trial. I want a separate person for that purpose. That is why I suggested a higher officer than the sub-magistrate for the trial and avoided preliminary enquiry for that purpose. If you have a preliminary enquiry, then you must have two officers.

Q. A suggestion has been made that after the preliminary enquiry has been made by the District Magistrate the case should be sent up to a matrimonial court consisting of a magistrate and two non-officials. What do you think of that proposal?

A. Supposing the matrimonial court is a final court, then difficulties would come in as to whether there should be an appeal.

Q. We are considering only the general principles and not the details.

A. I do not want any special court for the purpose.

Q. Would you like that marital cases should be made compoundable with the sanction of the court?

A. There can be no compromising in matters like this.

**Written Statement, dated the 7th August 1928, of Rao Sahib T. S. TIRUMURTI AVL., B.A., M.B.C.M., D.T.M. & H., Professor of Pathology, Medical College, Vizagapatam.**

1. The dissatisfaction as to the inadequacy of the existing laws exists among the educated men and women, especially among social reformers.

2. The advance on the present law is required for the following purposes:—

(a) To protect girls who cannot be said to be of mature understanding before they are of at least 16 years of age to give consent knowing the consequences of their doing so.

(b) To minimise maternal and infantile mortality.

(c) To help in building up a virile nation of strong and healthy men and women.

3. I have no statistical or reliable information which I can offer on these points.

4. The amendment of 1925 has not effected any of these reforms. The spread of general education is very slowly stimulating public opinion in these matters.

The only way to make it effective is to raise the Age of Consent and to pass laws to prevent marriage of boys and girls below the ages of 20 and 16 respectively.

5. About 12 years—age of puberty. It does not differ much according to castes or communities or social status.

6. (1) No.

(2) Yes.

(3) Yes.

These will never come to court. Firstly people in general do not know that these acts are illegal and secondly these are social customs with which no person desires to interfere.

7. Religion has nothing to do with them. The cry that "Religion is in danger" whenever laws to prevent social evils are proposed in the legislatures is a bogey.

8. Nuptials ceremony or Garbhadan ceremony is the same as the ceremony for consummation of marriage. It is performed after the attainment of puberty. Usually it is celebrated on an average within a year after the attainment of puberty.

9. The beginning of physical maturity is marked by the "attainment of puberty" which ought to be called really the commencement of menses. Full physical maturity is much later—seen only at about the age of 18 years. Commencement of menses does not justify consummation of marriage. Consummation of marriage without injury to health and to the progeny is justifiable only after 18th year in the case of girls.

10. At the age of 18 years.

11. I have not kept records. It is within the experience of every medical practitioner that serious damage to health and progeny results from consummation of marriage before full physical development is reached.

12. I cannot believe that there can be two opinions in this matter. The evils mentioned are traceable to the early consummation of marriage.

13. No development in public opinion except in the case of the few educated persons who reside in urban areas.

14. They are only slaves to social habits and customs. They have not become vocal. It is only the fear of social and communal difficulties owing to early marriages which make them favour early consummation of marriage.

15. There will always be attempts to give false age to escape the punishment for infringement of such laws. Certificates from Birth Registers, or from school registers or from medical men or from respectable men of the village, etc., have to be scrutinized by courts to arrive at a decision.

16. Difficulties in determining age will be minimised by raising the Age of Consent to 18 years or at least 16 years as is now proposed.

17. They should be separated into different offences. The punishment under marital offences should be less than in the extra-marital offences. Transportations should be abolished. Imprisonment for short periods and small fines will serve the purpose.

18. Enquiries into all these offences should be held as much as possible without drawing much public notice and if possible in camera. I am unable to suggest the exact legal procedures which are necessary for the purpose.

19. Greater safeguards ought to be provided. Prosecutions should not be ordered except by a superior officer, who should previously make the necessary private enquiries and satisfy himself.

20. Legislation fixing the minimum age of marriage will be more effective than legislation fixing a higher Age of Consent. Once the marriage is performed early, it is difficult to prove whether the consummation of marriage has been done before the girl reached the Age of Consent or not. Moreover, the nuptials ceremony may not be performed at all. It would also be difficult to prevent the young girl and her husband from coming into contact with each other after their marriage. None of the two alternatives would be favoured by public opinion. In such matters only the educated public opinion alone should count. Social evils can be eradicated only by laws enforced on an unwilling people. No rebellions or riots needs be feared. The people would take to it as kindly or passively as they obey vaccination laws now.

21. Education and propaganda are good in their own way but would take a millenium to prevent social evils, especially in a country like ours, where social customs and habits do not change for centuries. Strengthening of Penal laws are therefore necessary.

**Oral Evidence of Rao Sahib T. S. TIRUMURTI, B.A., M.B. & C.M., D.T.M. & H., Professor of Pathology, Medical College, Vizagapatam.**

*(Vizagapatam, 5th December, 1928.)*

**Chairman :** How long have you been professor in the Medical College?

**A.** 10 or 12 years.

**Q.** You say that women are only slaves to social habits and customs, and that they have not become vocal. It is only the fear of social and communal difficulties owing to early marriages which make them favour early consummation of marriage. Have you had occasion to talk with ladies and get their opinions on the matter?

**A.** I base my opinions on the various ladies' meetings accounts of which were reported in the papers.

**Q.** What age would you fix for marriage?

**A.** I would prefer 18, but as a compromise I would have 16. In the case of boys I would fix it at 20.

**Q.** Can you suggest any method by which we can allow the Brahmins and the Vaishyas to have pre-puberty marriages and yet effectively postpone consummation of marriage and consequently maternity till 16?

**A.** I can say that a law which allows marriage before puberty but only postpones consummation till a particular age will not meet with the same amount of opposition as a law fixing the age of marriage. But I think it will be difficult to accomplish the object which we have in view. It would be difficult to prove whether consummation has or has not taken place, and it would be difficult to prevent the boys and the girls from coming into contact with each other.

**Q.** Would you have an age of consent law, in the absence of a marriage law?

**A.** Yes; I would have that as the second best thing.

**Q.** What age would you have for the Age of Consent in marital cases?

**A.** I would first have 16, and if it is not found satisfactory, make a further advance after sometime.

**Q.** What justification do you think there is for setting aside these very old customs which exist amongst Brahmins and the Vaishyas?

**A.** The fact that something has been long in existence does not mean that it is very advantageous or desirable. If we think that it is a social evil we should take steps to remedy it.

**Q.** But they say it is not an evil.

**A.** I will prove by means of statistics that it is an evil. But if even then if they are blind to the facts, we cannot help it.

**Q.** Do you think that these communities suffer because of early marriage and early consummation?

**A.** Yes, I have got friends who have collected statistics on these matters. Also from my experience as a medical man I know that pre-puberty marriage completely deteriorates and undermines the constitution of the girl; and the maternal mortality and consequently the general mortality is very much greater in India as compared with other countries.

**Q.** During your experience as a medical man have you noticed the results of child marriages to be bad?

**A.** I have had experience of it in my own house. I know that such things do exist in my friends' houses and other's houses as well. I therefore think that it is only proper that the age should be raised in the interests of the race.

**Dr. Bradon :** Can you give us details of one or two cases which you might have come across in your friends' houses within the last 4 or 5 years?

**A.** I know instances where the girls were suffering from diseases like tuberculosis and they ought not to have been married. On the other hand the parents are forced to marry them, because they are afraid of social ostracism.

**Q.** Do you know of strong girls who have been married early and are mothers early, and yet suffer?

**A.** I know of cases where the girls have been fairly strong and healthy. They really do not know what they are married for. But when they are about to deliver they curse themselves.

**Q.** In the last 4 or 5 years how many cases have you seen of instrumental delivery?

**A.** I am unable to give you statistics on the point because I do not attend to maternity cases.

**Mrs. Nehru :** May I ask whether you are a Brahmin or a non-Brahmin?

**A.** I am a Smarta Brahmin.

**Q.** Is public opinion amongst the Brahmins very much against raising the age?

A. Among the educated Brahmins I don't think public opinion is very much against the proposed law, among the orthodox also there are educated Brahmins who are not against it. Majority of the unorthodox Brahmins are for an advance.

Q. In this part of Madras are English educated Brahmins for it?

A. Majority of them will be for it.

Q. What is the average age of marriage amongst them at present?

A. 11 to 13.

Q. It is still pre-puberty?

A. Strictly pre-puberty except in very rare instances where they hush up the appearance of puberty.

Q. If they are so much for reform, if they have such a great desire for the change, why don't they do it themselves? Why do they require law?

A. There will be many persons who would rather be willing to obey the law rather than do it themselves and face social ostracism.

Q. But when the majority of the people are for it their own will ought to take the place of law?

A. It ought to be. But I find unfortunately, the fear of social ostracism, the fear of the community is much more predominant than the moral convictions of the individual, who dare not go against the society for purchasing peace at home and abroad.

Q. In that case some marriages must have taken place after the attainment of puberty among the Smarta Brahmins.

A. Among the educated there have been cases.

Q. In those cases of post-puberty marriages was there any social ostracism?

A. There is ostracism to a certain extent, but they being of a higher status in life ostracism is not so keenly felt. They are brave enough to face it.

Q. What is the ostracism, don't they eat with them?

A. There is a certain amount of difficulty in cases where they put up to the world that they are doing post-puberty marriage. People who have got moral back-bone are brave enough to face the ostracism. They will openly say that they are going to celebrate post-puberty marriage. In the case of the people of a higher strata there is not the same amount of ostracism. In the case of the poor and middle class living in the rural tracts there is ostracism.

Q. Is there a great deal of higher education in your community?

A. They are coming up very well. Education is spreading, but I am not satisfied with the pace.

Q. Are there many girls who have gone to colleges and are graduates?

A. Yes, there are.

Q. Did they graduate while unmarried or after marriage?

A. Most of them are rarely unmarried and majority of them are widows. More are widows than unmarried. The parents send the widows to schools and colleges so that they may be useful members of the community and they may not think of widowhood.

Q. Have you noticed that the age of puberty amongst your community is earlier than the non-Brahmins and others?

A. I do not really think so. I think the age of puberty does not very much differ among the different castes and sub-castes. It is more or less the same. It may be a difference of a few months which I ignore.

Q. Have you not observed that amongst the early marrying people the age of puberty is earlier than amongst the late marrying people?

A. I think the age of puberty is just the same, between 11 and 12.

Mr. Mitra: You consider that girls in tropics attain puberty earlier?

A. Yes.

Q. It has been said that delivery in the case of first child-birth is easier below 20.

A. It is comparatively more difficult after 20.

Q. Do you find from your experience that the children of the Brahmins who usually marry early are inferior in health to the children of other communities where post-puberty marriage is practised?

A. I should consider so. The children of the early marrying people are more puny and less able to resist disease and they are constitutionally also weaker.

Q. Do you find that the Brahmins as a class are weaker?

A. Nobody has taken statistics from the same social strata of the Brahmins and non-Brahmins and therefore I am unable to give an answer to that question.

Q. Can you say from your experience that there was any social ostracism or ex-communication when anybody gave his daughter in marriage after puberty?

A. Yes, there is social ostracism.

Q. In paragraph 7 you say religion has nothing to do with this. Do you seriously say that there is not even a very small orthodox section at least in villages who really think that post-puberty marriage is a sin?

A. I have not read religion and I do not know anything about the shastras. I personally believe religion has nothing to do with fixing the age of consent or marriage. Among the Pandits even there is a difference of opinion. Some say that post-puberty marriage is allowed and others say only pre-puberty marriage is allowed according to the shastras. I have therefore to use my own commonsense and using my commonsense I find religion should not interfere in these matters and this cry of religion in danger is false. We are used to it for many other purposes, for example, the vaccination law and the Religious Endowments Act.

Q. I understand you are for fixing the minimum age of marriage and that at 16.

A. Yes.

Q. What punishment would you prescribe for the breach of the law?

A. That is rather a difficult question for me to answer.

Q. Are you ready to make any exemptions for those who seriously think that it is against the scriptures?

A. I do not make any exemptions. It is a measure intended for the general welfare of the people and for the benefit of the whole race.

Q. Among the Brahmins marriage takes place earlier and consummation takes place later. It has therefore been suggested that you can fix an age for consummation rather than for marriage. Do you agree with this?

A. Without fixing the marriageable age it is very difficult to carry it out. It is not practical politics.

Mr. Kadri: You seem to think that 18 is the safe age for maternity?

A. Better age.

Q. Do you think 16 is good enough?

A. 16 is not bad. I shall not really advocate it.

Q. Some witnesses have said that by way of compromise you may raise the age to 14 at present and leave it to future legislation to raise it further. Do you think that will be the proper step?

A. That is simply burking the question. It is not attempting it seriously. It is doing in a haphazard way. It is not a good compromise. If you want to legislate fix the proper age otherwise leave it to propaganda and other things. Let them take their own course.



# **Oral Evidence of Shri YIKRAM DEV VARMA of Jeypore.**

(Vizagapatam, 4th December, 1928.)

*Chairman:* Are you a member of the family of the Jeypore Zamindari?

A. Yes.

Q. Are you practically leading the new Utkal movement?

A. Yes.

Q. You are also, I understand, a Sanskrit and Telugu scholar?

A. A little.

Q. I hope you will be able to give us some information about and throw some light on the vexed question that we have to deal with?

A. If you hope so, I think, I may.

Q. What are the communities here in which pre-puberty marriages are looked upon as essential?

A. Brahmins and Vaishes, i.e., the Cometies . . . .

Q. You have no Chetties here?

A. No. The other communities are Kharvas alias Kayasthas, Goldsmiths and Blacksmiths.

*Mr. Kanhaiya Lal:* What caste are these goldsmiths?

A. They are Kamsali, but now they call themselves Vishva Brahmins.

*Chairman:* The rest, may I take it, are post-puberty people?

A. Yes.

Q. What is the marriageable age of girls amongst these post-puberty people?

A. Post-puberty communities, especially the Sudras, think that they are to follow Brahmins and marry their girls early. But generally the marriageable age is between 14 and 16. Now-a-day however in order to become of a higher caste they want to imitate the Brahmins and marry their girls early.

Q. But amongst them I suppose the girls have attained puberty at the time of marriage?

A. Generally among the working classes puberty is attained between 14 and 16.

Q. Are these girls married after puberty or just about that time?

A. It does not matter.

Q. And consummation takes place almost very soon?

A. In Telegu they perform consummation as soon as the girl attains puberty. On the 3rd or 4th day of marriage consummation takes place. If she has not attained puberty they wait till then.

Q. Among the post-puberty people consummation of marriage takes place between 14 and 16. When does it take place among the Brahmins and the pre-puberty people?

A. They also perform Garbhadan as soon as the girl attains puberty and only in certain cases it is postponed. But the rule is it should be performed soon after puberty. In Orya parts however it is postponed for one year.

Q. Even among the Brahmins?

A. Yes.

Q. You attribute all this to custom and practice?

A. Yes.

Q. You apparently suggest that the Age of Consent should be raised to 16 and the age of marriage, if there is to be a law, should be about 10.

A. Not less than that. The Hindus believe that marriage is also one of the sacraments and they do not believe that marriage is a contract and that is why many people rely upon Smritis and perform marriage according to

them. There have been cases however in my class where girls have been married late. My own daughter was married after she was 15. My wife was married after puberty. But seeing the notions of the orthodox Brahmins and Vaishyas and other classes I suggest that the marriage age should not be less than 10, but if consummation is postponed till 16 there will be no harm, in my opinion.

Manu says that the Bridegroom's age must be 30 and the Bride's age must be 12 or it must be 24 and 8 at the time of marriage. Other Grihya Sutras lay different ages. Vagbhat says the proper time for consummation is 16 for girls and 20 for boys. Considering these Smrities, I fix the marriageable age at 10. I would also suggest, though it may perhaps be out of place, that a woman must not be allowed to marry after 45 and the man must not be allowed to marry after 50.

Q. Have you known of any woman being married after 45?

A. Not in India, but in foreign countries I hear such cases take place.

Q. We are not legislating for foreign countries.

A. Anyhow I want to restrict that.

Q. You have said it is a custom that prevails and not the texts?

A. In texts there are some discrepancies. One man believes the meaning to be this and the other man believes it to be that.

Q. So that it is really customs that rules?

A. Yes. In order to restrict that custom I would put the age at 10.

Q. Why don't you put it at 12?

A. Personally I would agree to 12 but seeing the opinion of the orthodox people I can't say that.

Q. Do you know of any other texts about the necessity of a man seeking his wife immediately after the first menses within 16 days?

A. I know.

Q. Are they permissive or binding?

A. They are permissive.

Q. And these injunctions about pre-puberty marriage you think are not permissive.

A. They also are permissive, but many people think otherwise, and consequently I am inclined to fix the age at 10.

Q. Are you also aware of the fact that if a girl is beyond 12 or 10, there is a certain Prayaschit which can be observed for so many *ritus*?

A. There are texts. Some *Gowdan* is provided.

Q. Do you think, if the prayaschit is made, the sin will disappear?

A. Certainly. If a man believes in Smrities he must say that. But unfortunately this is not practised.

Q. Is the injunction about the boy's age being 24 and 30, etc., followed by the Brahmins?

A. No. They are married at 14 or 12 even.

Q. Have you reason to believe that the present law is broken by some people?

A. No, I don't think so.

Q. You don't think girls attain puberty at 12?

A. Very rarely, 13 is also very rare. There are some cases but they never come to light.

Q. But if the age is raised from 13 to 16, there will be a large number of cases, far more than at present. Do you think it is possible for girls and boys living under the same roof, coming together and having constant opportunities of meeting each other, to hold out for 3 years?

A. Among the Oryas there is a custom that after puberty till Garbhadan ceremony takes place the wife and the husband must not see each other's face.

Q. But that is done generally soon after puberty?

A. After one year.

Q. That means before 15 there is consummation. If a girl attains puberty at 13 consummation takes place at 14 and if puberty is attained at 14 consummation takes place at 15 and so on. Do you think it is practicable for a youngman and young woman to postpone consummation? Is this not impracticable if they live in the same house?

A. But in our country, as I have already said, the husband and wife must not see each other's face before Garbhadan ceremony is performed. If you keep them separate there will be no harm. Till Garbhadan ceremony takes place the girl is not sent to the father-in-law's house.

Q. Are you certain about it?

A. Yes.

Q. We are told that the girl goes for many purposes to the husband's house.

A. Because in this country they marry their maternal uncle's daughter and in such cases they come and go.

Q. But every man won't marry his maternal uncle's daughter.

A. In Orissa she will not be sent at all till the Garbhadan ceremony actually takes place. In Telegu country she does go before also.

Q. Take the case of young men and women with lot of passion in them coming together inspite of there being no Garbhadan ceremony. You realise that there may be a baby and the husband may be punished.

A. I do not want this punishment.

Q. Then what is the punishment that you would suggest between 13 and 16?

A. Only fine and no imprisonment.

Q. How much fine?

A. Some one or two hundred rupees.

Q. That will mean only an additional expenditure of Garbhadan ceremony?

A. The fine may be increased to a big sum.

Q. What, 1,000 rupees?

A. The poor man won't be able to pay. I would have only a nominal fine therefore.

Q. Should such cases if they go to court be tried by ordinary magistrates?

A. I don't think so.

Q. Then who is going to inflict the punishment?

A. There is no other alternative, I think the civil court will have to be given some power.

Q. Instead of all this, if the age of marriage is raised to 14 or even 13, all these troubles would not appear.

A. But how many people will commit such an act. These will be only rare cases.

Q. I don't think there will be few cases.

A. If the law is carried into effect, I think, the guardians will be more careful.

Mr. Kadri: You say you would fix the age of marriage at 10 and the Age of Consent at 16 and you say it would be possible to prevent consummation between 10 and 16. Is it a practical proposition?

A. I think so.

**Q.** Do you realise that in the case of the breach of the law so far as it concerns the marital relations it is so difficult to get a prosecution? Neither the parents will like to complain, nor the relatives nor any neighbours will make a complaint. As a matter of fact so few cases have hitherto come to light. There will be more chances of breaking the law if the age is raised to 16?

**A.** I think otherwise.

**Q.** Do you know that there is a large number of virgin widows in the Hindu community between 10 and 15? There are several lakhs of them. They are over 3 lakhs.

**A.** But if the age is raised to 17 or 18 even, how will it affect?

**Chairman:** We can't save all widows. But if the age is fixed at 14, so many girls will not become widows. They will have one chance less.

**A.** What is the difference if a girl becomes widow at 14 or 15 years? Suppose she becomes a widow at 16, what difference will it make?

**Mr. Kaffri:** I have heard of a case here. The girl was married at 9. She became a widow at 11. She was leading a miserable life. The father of the girl had the moral courage to remarry her at 13. For this the father is being looked down upon though the girl is happier. The chances of such cases, if the age is raised, will be minimised.

**A.** For that only I won't raise the age. Supposing she becomes a widow at 15 or 16 what difference does it make?

**Q.** Is there any provision in your shastras about the education of girls?

**A.** There is.

**Q.** What is the provision? Would you like the girl to be educated at all?

**A.** Yes. But in those shastric days our schools were different from those of the present day.

**Q.** You therefore want a change in the system of education?

**A.** Education befitting their position in life must be given to girls. Among Oriyas, Brahmins and Kaisthas all girls are educated. At least 90 per cent. of them are educated. There are girls who read Puranas. Almost all Karna girls read Puranas.

**Q.** Till what age do they receive education?

**A.** They are educated at homes generally and they don't go to schools.

**Q.** What about those who are not able to provide for education at home?

**A.** In their case neighbours do that.

**Chairman:** Do you think that the girls of the present generation, modern girls, require the art of motherhood and babies being nurtured?

**A.** Oh, yes. That kind of education must be given.

**Q.** You think that that is very essential?

**A.** Yes.

**Q.** When is that to be given? Is it to be given before 10 or 12?

**A.** After 16. If you provide such schools and have women teachers what is the harm in giving it after marriage?

**Q.** Has anybody in this part of the country attempted any such schools?

**A.** Everybody wishes to have but nobody tries.

**Q.** Can a boy or a girl finish his or her education till 12?

**A.** The girl can read till 16.

**Mr. Kadri:** Some people have said that in days before Manu there were early marriages. Is that correct?

**A.** First Smriti is Manu Smriti. We don't know before that.

**Mr. Kanhaiya Lal:** The mantras suggest that the boy and the girl used to understand the mantras and they were grown up and fit for consummation. In the Vedas also there are various descriptions. There is a *richa* which

deals with the marriage of the daughter of the Moon with the Sun. You will find there that the marriages were performed when they were grown up.

A. The Grihyā Sūtras are like Manu. They are however older than Manu. According to the Sūtras different things are to be performed by different mantras and the meaning given are also different.

Q. Does not Chaturthi Karma imply that the girl must have attained puberty?

A. There were some cases no doubt.

Q. Not always?

A. I don't think.

Mr. Kadri: According to the shastras is not the girl to have some voice in the selection of her husband?

A. When a father has not married his daughter within three years of the attainment of puberty she has a right to give herself away. That is a sort of Swayamvar. She can choose her own husband. But our forefathers used to marry their girls as minors and as minors they could not have a voice. The guardians had to see to the welfare of the girl.

Q. Therefore the remedy may be that they should not be married when they are minors. Is it not?

A. I don't like that idea. Even among the Mohammedans the girl has no voice.

Q. The girl is consulted and it is ascertained whether she is willing to be married. Is it not so?

A. She only gives a nominal consent.

Mr. Mitra: What is the average age when Brahmin girls are married here in this part of the country?

A. 10.

Q. And you said that the age of marriage should be fixed at 10. Is it complete ten years?

A. Complete 10 years.

Q. And you expect that the orthodox will not very much object to this?

A. They won't grumble.

Q. Why do they grumble if the age is fixed at a higher level?

A. They think it is a sin.

Q. According to these texts marriages should be performed between 8 and 10. Otherwise you go against the texts, is it so?

A. Yes.

Q. How will it be consistent with the orthodox opinion?

A. They agree from 8 to 10.

Q. But you fix the age when the 10th year is complete. She will become a *Kājasāla* in the technical sense.

A. "Dashbarsha" is complete 10 years.

Q. But cannot time and custom change this law?

A. They do. Even in the Shāstras there are 8 forms of marriage, but they are not all followed because of the custom. Out of 8 the first four are permissible but we observe the Brahma form only.

Q. You know in Southern India the Brahmins marry even their nieces. In this do not they overrule the shastric injunction?

A. Yes, they do.

Q. In fact girls are now married after 10 among the Brahmins also. Do you find that when they are married at 10 or 11 the other Brahmins socially oppress them?

A. Till actual puberty they won't object.

Q. But puberty is concealed in many cases?

A. That is another thing.

Q. Supposing you have a friend who has a daughter, and the daughter attains puberty but it is concealed and the daughter is married after puberty; with that knowledge, will you come in contact with him?

A. No.

Q. Do you think if the marriage age is fixed at 10 now, it may be raised to 11 or 12 a few years after?

A. If the society accepts.

Q. By society you mean the Brahmin society or all the society?

A. I think those who want this thing, they may marry after 20 years. There is no harm in that.

Q. Even in the case of Brahmins if we fix the age of marriage at 10, after a few years it can be raised?

A. It can be done if the society wills.

Mr. Mitra: Do you think that if we fix the minimum age of marriage now at 10, after a few years, it can be raised to 11 or 12?

A. It can be done if the society allows. We can start with 10 as a first step.

Q. Have you given any age for extra-marital cases?

A. I make no distinction for marital and extra-marital relations.

Dr. Beadon: Have you met any cases of girls of 14 becoming mothers?

A. There are very few cases, even below 15.

Q. Do you find girl mothers under 14 amongst the Oriyas and amongst the Telugus?

A. Amongst the Oriyas there is no possibility. Generally they are kept for one year after puberty.

Mr. Kanhaiya Lal: May I ask you whether instead of sending the marital cases to the ordinary criminal courts, the people would prefer if they are sent to a matrimonial court consisting of a Magistrate and two non-officials as co-judges.

A. I appreciate this suggestion but I am afraid we have to incur another extra expenditure for it.

### Oral Evidence of Mr. PRABHA LAXMI NARSIMHA, Advocate, Vizagapatam.

(Vizagapatam, 5th December 1928.)

Chairman: How long have you been at the Bar?

A. For the last 24 years.

Q. Do you belong to the Telugu Brahmin community?

A. Yes, of the Velanadu sect.

Q. In your community pre-puberty marriages are considered essential?

A. Yes.

Q. Do you consider the texts in favour of pre-puberty marriages recommendatory or mandatory?

A. I think they are mandatory.

Q. Would you quote your authority for saying that they are mandatory?

A. (The witness read a Shloke from Smriti Chandrika, page 71.) A *Prayaschittam* is provided for the non-performance of marriage before puberty and therefore marriage after puberty is not in accordance with the injunctions of Shastras.

Q. Do you consider this to be *Niyam Vidhi* or *Apoorva Vidhi* or *Parasankhya*?

A. It is Niyam because the non-performance of it entails a penalty.

Q. What is the penalty laid down?

A. The child that will be born will be illegal in the Brahminical sense.

Q. Can you give us the text which says that the issue will be illegal?

A. (The witness quoted a Shloke from Nirnaya Sindhu, page 251, which only showed that the girl becomes a *Trishali* if she is not married before the attainment of puberty.)

Q. Supposing a girl becomes *Rajaswala* and then the prescribed *Kushmanda Home* is performed and some *Godan* is made, do you admit, in that case, that the sin is expiated and the girl can be married after that rightly?

A. Yes.

Q. Is there no *Prayaschitta* for the father who does not do his duty and becomes an *Apantkeya*?

A. According to Manu if the father does not perform his duty the girl can after 8 years choose her own husband. Because the father failed to perform his duty within the proper period he loses his domination over the girl and she has the liberty of giving her away in marriage herself. There is a *Prayaschitta* for that.

Q. After taking the *Prayaschitta* no sin remains.

A. There is no *Prayaschitta* prescribed in Hemadri.

Q. That is not the only authority.

A. There is no such distinct mention in Manu too.

Q. Is there not the *Prayaschitta* of *Kushmanda Home* laid down?

A. There is.

Q. Is the sin expiated when once the *Prayaschitta* is taken?

A. Yes.

Q. But you still persist in saying that the progeny will be illegal even after the *Prayaschitta* has been taken?

A. There is a memorandum prepared by the Pandits of Vijanagar Sanskrit College presented to the All-India Brahmin Sabha called by the Maharajah of Darbhanga which shows that the issues will be illegal.

Q. That is only an opinion. Can you give us an authority for the statement that the progeny will be illegal if the girl is married after the attainment of puberty?

A. There is no authority, it is a matter of logic and inference. *Prayaschitta* is intended for a case of *apat dharma*, like marriage after puberty and not for a regular marriage before puberty.

Q. But supposing by any chance the girl attains puberty and the *Prayaschitta* is made, will the progeny be still illegal?

A. There are some cases which are provided for either by the *Smritis* or the *Grihya sutras*. Certain *Prayaschitta* have been laid down in some cases but for intentional sins there are no *Prayaschittas*.

Q. Can you give me an authority for saying that for intentional sins there is no *Prayaschitta*?

A. There are various kinds of *Prayaschittas*. There is a *Prayaschitta* for an act once done, for an act repeated and for a repentant sinner, but for intentional violation there is no *Prayaschitta*.

Q. I want your authority for that?

A. That is my recollection.

Q. What is your authority for saying that after the *Prayaschitta* even the progeny is still illegal?

A. There are various kinds of *Vivah*.

Q. I have taken the case of a *Bramha Vivah* and where the father has taken the *Prayaschitta*.

A. I won't call it a *Brahma Vivah* at all.

Q. You won't call it a *Brahma Vivah* at all. The only conditions of a *Brahma Vivah* are that the girl should not be a *Rajaswala* or if she is, a *Prayaschitta* must have been performed. Do you really think that it is not a *Brahma Vivah*?

A. For the purpose of *Brahma Vivah* the girl should be of a certain age and given to a *Snatak*. If a girl becomes *Rajaswala*, a *Prayaschitta* has to be performed.

Q. And yet you are prepared to say that it is not a *Brahma Vivah*? You say that even after the *Prayaschitta* has been made, the progeny becomes illegal, and you go further and say that the *Vivah* is not a *Brahma Vivah*. Will you give us any authority for these two statements?

A. (The witness promised to send authorities.)

Q. Among the Brahmins and Vaisyas who have pre-puberty marriages, is the injunction about consummation taking place within the first 16 days of puberty regarded mandatory or merely recommendatory?

A. It is merely recommendatory.

Q. But do you know that it is *Bhrunahatya*?

A. It is not.

Q. But there are texts to show that?

A. As I interpret them it is not. There are some who hold that the injunction is binding but there are others who say that it is not. I would, however, qualify by saying that if a man says that from the first appearance of menses there is *Bhrunahatya*. I don't agree with him, because the spirit as well as the letter of the text says that it is a sin only when the woman is desirous of sexual intercourse and is capable of producing progeny and the man neglects his duty even though he is without a male issue.

Q. Is there any *Prayaschitta* laid down for that?

A. There is. The *Kushmanda Homa* is to be performed?

Q. Among the pre-puberty classes, the Brahmins and the Vaishyas, do you see any deterioration in the girls that marry below 15 or become mothers below 16 or among the children?

A. Physically there is deterioration.

Q. Would you say that that this early maternity is one of the causes at any rate of the deterioration?

A. May be.

Q. Do you think that it is one of the causes of so many infants dying within one year?

A. I don't think because they are better cared for among the Brahmins and the Vaishyas.

Q. But is this mortality equally bad as among the other classes?

A. That I can't say. But among the Brahmins I consider they are better cared for, also better nourished and better looked after.

Q. If the results are bad surely one of the causes of that would be early consummation?

A. Yea.

Q. Are you in favour of any legislation at all?

A. No.

Q. Not even for consent?

A. No.

Q. Would you abolish the present law of 13?

A. I consider it as unnecessary.

Q. But would you rather adhere to it?



A. Yes. Gradually public opinion is moulding itself on account of better moral and social ideals. Practically the age of consummation is being postponed by mutual consent.

Q. Supposing medical opinion says that a girl is not fit for safe motherhood before she completes her 16th year, would you like any legislation in that case?

A. Even then I don't like legislation. I would depend upon propaganda.

Q. But you have felt the evil, you are in favour of making propaganda.

A. Yes.

Q. During the time that you have been at the bar have you been doing any propaganda yourself?

A. I have married 3 daughters between the ages of 11 and 12.

Q. That is an advance on 3 and 4.

A. As far as possible I am inducing my relations to put off marriage after 10.

Q. I am talking of consummation.

A. Even consummation is being put off till 14 and 15. 13 is very rare in my community. 14 and 15 is common. But I consider there is nothing in the Shastras preventing the postponing of consummation till 16. The *Bhrunahatya* texts as I interpret them only relate to a man who has no male issue and the wife is capable of producing progeny and is desirous of having intercourse and he in that case neglects his duty at the proper time. It is a sin in that case only.

Q. But that applies with very great force when the girl attains puberty and when, of course, the man has no son to take him away from hell. Is it not?

A. Human nature being what it is, the desire for offspring does not come with the first appearance of menses. That is only an instinct which develops later.

Dr. Bradon: Are you a Brahmin yourself?

A. Yes.

Q. You don't think that the girls get the desire at the first menses?

A. No.

Q. And that what the people say that the girls will go wrong is quite wrong.

A. Yes. My boys are 18 and 19. I have not married them yet.

Q. What age would you fix for boys?

A. I should consider 18 should be the minimum age.

Q. And you don't think there is much risk of the boys going wrong?

A. No. If they are properly trained and put into schools I don't think there is any danger of the boys going wrong.

Q. Have you not met in your community any case in which a girl married very young have had trouble at child-birth?

A. Those cases are numerous. The first child-birth is considered to be a fatal delivery in almost every household.

Q. Have you met any cases in which the first child-birth proved fatal? In the last three years have you noticed any case?

A. It is a very very great ordeal both for the mother and the mother's mother even when the child-birth occurs at 14, 15 or 16 for the matter of that.

Q. Have you any knowledge of child-birth in the case of girls whose marriage took place later, at 17 or 18?

A. No.

Mrs. Nehru: What are your reasons for being against this legislation?

A. I consider that Bharat Dharma is not a thing to be dealt with by the State. The legislatures as they are at present composed have no authority to legislate on religious matters affecting the communities which are not adequately represented. Take, for instance, the Brahmins who are largely affected by this proposed enactment. How many Brahmins are there in the Assembly?

Q. There are many Brahmins, but you have used the word "adequate".

A. The thing is that those that go to the Assembly might be of very advanced views and the country may not agree with them and they have no mandate with regard to this.

*Chairman:* This is an objection which will hold good in all representative institutions because you can always say that a particular community is not adequately represented and you would not like the legislature to interfere at all in that case.

A. No, I would not.

Q. Then would things not become impossible at that rate? The communities may say they are not represented at all. Then again this legislation is going to deal with Islamic law also.

A. To a very small extent.

Q. Brahmin and Vaishya communities are also after all a fraction of the whole.

A. As a lawyer I may say, neither the Government of India nor the Legislatures as they are at present constituted have any authority to interfere in religious matters or socio-religious matters. It is a problem vitally affecting religion, and I don't think the Legislature has got any authority to interfere.

Q. Are you prepared to look at this point from any other way except the religious point of view?

A. I cannot look at this point from any other point of view except the religious.

*Mrs. Nehru:* Do you not consider the abolition of *Sati* as an interference with the religious practices of the people?

A. I don't consider so because it was not mandatory.

*Chairman:* But don't you think that it has come in the way of Dharma?

A. Yes.

*Mrs. Nehru:* When it is permissible to be a *Sati*, will not that act be called an interference with religious practices?

A. I don't mean that every woman should throw herself on the pyre. If she desired, she could go.

Q. Was it not her religion to go?

A. True.

Q. If you consider it her religion to go, why don't you consider it an interference with the religious liberties of the people?

A. As I said before, that if she desired, she could throw herself on the pyre but it was not mandatory.

Q. Can you not put this high infantile mortality in the same category as this?

A. The remedy lies in the propaganda of raising the age of consummation.

Q. You justify the abolition of *Sati* on certain grounds. Can you not put this legislation also on the same grounds?

A. The analogy cannot apply here because the marriage is peculiarly within the province of religion and the Hindu Society is founded upon marriage which is the *Samskara* prescribed by the Vedas and which is the foundation for the discharge of the householder's duty as prescribed by the Vedas, and for fulfilling of what is called the "Dharma" in the *Shastras*. I respectfully submit that the state ought not to interfere with this matter.

**Q.** Do you think that early marriage suits the economic struggle in the present day?

**A.** I am afraid it will have the opposite effect. Now in this part of the country a large amount is to be paid for the bridegroom and fathers are finding it very difficult to marry their girls; and, if the father's rule is transgressed and if it is left to the option and convenience of the father to marry his girl, there may not be sufficient inducement in him to find out money and marry his girl in proper time and perhaps the bridegroom also might demand more money. Therefore economically I consider that by removing this pressure the society will be affected considerably and the problem of unmarried girls will arise at once.

**Q.** Do you mean to say that if the pre-puberty marriage is abolished, the parents will not marry their girls?

**A.** The problem of the bridegroom price is this. In ordinary respectable families where especially the bridegroom happens to be an English educated man a huge demand is made by the father of the bridegroom and the fathers make every attempt even to meet such heavy demands because the marriage is to be performed within a particular time.

**Q.** Supposing this pressure upon the father is removed, can he not do it later on?

**A.** When once the rubicon is crossed, there is no limit where he can stop, and then there is of course the prospect of the bridegroom demanding a higher price.

**Q.** Do you think that this custom of *Vara Shukla* is good?

**A.** I don't think so.

**Q.** Don't you think that this evil can be reduced by late marriages?

**A.** I am afraid it cannot be so in all cases. Even in communities in which late marriages are permitted such as the Parsis and other communities this dowry system or the *Vara Shukla* is very great which many people are not able to meet and several girls are remaining unmarried as a result of this. That is why I say that post-puberty marriage will not solve this problem. That is my humble opinion. On the other hand, it might make the problem more acute.

**Q.** There is another aspect of the economic question, viz., that when boys and girls are married young and start to get children, they have to think of feeding the young ones more than they were bound to in former days, and in former days the life was very easy. So don't you think that the economic pressure is much harder now than it used to be in former days along with the pressure of marriage?

**A.** As long as the joint family system remains, that pressure will be felt by the parents and it is not felt by the boys and girls.

**Q.** Do you think that the joint family system is entirely intact now as it used to be before?

**A.** It is so in this part of the country. The patriarchal power is in its full swing and the boys and girls are not thrown upon their resources immediately after marriage. That is why they don't feel the pressure so soon.

**Q.** Wouldn't the parents also like to wait for some time before they are burdened with the weight of grandchildren?

**A.** Of course the love of children especially among the old people is so great that they welcome any number even though they cannot find any means to provide for them.

**Q.** Don't you think that for the sake of reducing the number of widows, we should have late marriages?

**A.** That problem is quite different. For the widows there is already an act.

**Q.** Don't you think that there is again the pressure of society which does not allow these girls to remarry and therefore there is no remedy unless we raise the marriageable age?

A. Even supposing you raise the marriageable age to 13 or 14 or even declaring marriage below a certain age as null and void, I don't think you will have the desired effect.

Chairman: Are there a large number of widows below 15 or 16?

A. There are.

Q. Widowhood cannot be saved by any means nor can we save all the girls from becoming widows but will not a large number be saved if there is a legislation penalising marriages below a certain age?

A. Propaganda work will be the best method for this and I am against any legislation for this.

Mr. Kadri: May I take it that you are in favour of widow re-marriage?

A. I as an orthodox Brahmin am not in favour of that, because I consider that it is against the Hindu Dharma. It is permissible according to the Smritis and I have no objection if it is performed.

Q. Would you encourage it?

A. No.

Q. Are you aware that in the year 1922 the Madras Legislative Council passed a legislation praying to Government, to fix the minimum age for marriage at 16 for girls and 21 for boys?

A. Yes.

Q. Are you also aware that there was a large number of Brahmin members in the Council and yet there was no opposition in the country and no protest whatsoever was made against this resolution?

A. The Hindus are a docile race. Their mere non-protest doesn't mean that the feeling is not there.

Q. Am I to mean that if the law is there you will abide by it?

A. Because agitation is not the real feeling of the people.

Q. Is there a provision in the Shastras about the education of girls?

A. There is a provision in the Shastras for the education of the girls. Excepting the Vedas they can study anything.

Q. Is there no objection for their receiving English education?

A. There is no objection.

Q. Don't you think that early marriage will equally come in the way of their education?

A. It is a fact.

Q. Don't you think that we should devise some means to get over this difficulty?

A. By educating their husbands this difficulty can be got over. The fathers, of course, are trying to give them education but it is the husband who is standing in the way.

Q. You have said that in your own family you don't allow girls to consummate before 14. Do you not like that the same example should be followed by the other people?

A. That is my wish. I have already said that if possible consummation of marriage can be postponed till the 16th year.

Q. Would you advocate that in the interests of the rising generation the consummation of marriage should be postponed till the 16th year?

A. Yes, but not by legislation.

Mr. Kanhaiya Lal: May I know if marriages are effected after puberty amongst the Brahmins?

A. It is on retain slide but not in the Telugu country.

Q. At least will there be 10 per cent. of the Brahmins who marry their girls after puberty?

A. Not even one in a thousand.

Q. You say that marriages are celebrated after puberty and they are on the slide. Do you mean by that the fact of maturity is concealed?

A. Yes.

Q. Is such a marriage considered reprehensible amongst the Brahmins?

A. If it is known that such a marriage has taken place, it is considered reprehensible. Also the consensus of opinion amongst the Smriti writers possibly with the exception of Jaimini is that pre-puberty marriage alone is the legal marriage.

Q. Do you regard marriage before puberty as mandatory or recommendatory for all classes?

A. It is mandatory so far as the *Dwijas* are concerned.

Q. You know that Manu lays down that a man should not take any *Shulka* in connection with the marriage of his daughter. Is that mandatory or recommendatory?

A. It is not mandatory. There are rules prescribed by Yajnavalkya and Manu as to how this *Shulka* should go.

Q. Does not Manu say that if a suitable husband cannot be found, a girl may remain unmarried?

A. Yes.

Q. You have already admitted that there is some evil resulting from early consummation in some cases. Supposing the legislature decides that there should be a law fixing the minimum age for marriage, would not that satisfy you?

A. I wouldn't penalise marriages, but I would fix 11.

Q. Would you make a marriage below 11 invalid?

A. I don't think that any marriage can be made invalid.

Q. According to you marriages after puberty cannot be invalid. Is that not so?

A. Yes. Only it is considered reprehensible for certain communities. Even that, is permissible to those people who cannot call themselves Brahmins in the ideal sense.

Q. Supposing the legislature decides to fix an age for consummation, what age would you recommend for it?

A. For my part I will go up to 16, but in case of legislation if the inevitable is to happen there must be a conscience class relating to marriage.

Q. Am I to understand that if provision is made to exempt special cases by the District Judge or other prescribed authority, the marriage law would work effectively?

A. I don't think that it will work well in practice because those people cannot judge of the feelings and sentiments of the parents, and their refusal ought not to be the final decision in those matters.

Q. Supposing we give a right of appeal from the order of the first Court, do you think that with certain exceptions the marriage law will be acceptable to the people?

A. I don't think that resort to court for marriages is at all palatable to the people because even the cases with regard to restitution of conjugal rights are viewed with considerable disfavour by the community.

### Oral Evidence of Mr. S. KOKA APPA RAO NAIDU, Health Officer in charge, Vizagapatam Municipality, Vizagapatam.

(Vizagapatam, 5th December 1928.)

Chairman: Are you the Health Officer here?

A. I am the Health Officer in charge of the Municipality, Vizagapatam. I have got only one chart prepared and as the other charts are incomplete, I shall send them to you in a week's time.

**Mr. Kanhaiya Lal:** You have pointed out to us that the percentage of infant mortality among the Hindus is the highest. Can you tell us why it is so?

**A.** The custom of early marriages is one of the main causes for this high rate of infant mortality.

**Q.** You have also given an idea about deaths from child-births. I should like to know among which community the number of deaths from child-births is larger.

**A.** I shall send you these figures also.

**Written Statement, dated the 3rd December 1928, of Dr. R. ADISESHAN, B.Sc., Dip. Hyg. (Camb.), Assistant Director of Public Health, Madras.**

The accompanying Memorandum is a Summary of the results of a preliminary statistical analysis of the histories of about Seven Thousand Confinements registered in Madras, Madura, Trichinopoly and Coimbatore during the period October 1927—September 1928. The field work which consisted in ascertaining the history of the individual confinements and the recording of information thus obtained was entrusted to the subordinates of the Public Health Departments of these cities who were selected for the purpose in consultation with the Health Officers. On the basis of the average registered birth rate, the population coming within the scope of the present enquiry is approximately 175,000 of which Hindus constitute the great majority.

*Age at marriage.*

2. According to the Census of 1921, the proportion of married girls in the age period of 10—15 in the three chief communities in the population was as follows:—

	Proportion per 1,000 married women at all ages in the community.
Hindus . . . . .	59.85
Mohammadans . . . . .	34.27
Christians . . . . .	19.05

These figures indicate that early marriages of girls are prevalent to a varying extent in the different communities.

Generally speaking, the potential capacity of the female as regards reproduction dates from the appearance of puberty, the average age of the occurrence of which in this country may be taken as 12.5 years. Judged from this aspect, marriages before this age are really betrothals which, although they may be of interest to the social reformer, are not so important to the Public Health official as these marriages do not entail the risks of maternity and motherhood. Making due allowance for this circumstance the proportion of married girls in the ages 10—15 who are capable of becoming mothers is still not in any way negligible.

3. One of the items of information ascertained in the present enquiry was the age at consummation of marriage in the case of those girls confined at ages 18 and below: in some instances, this information has been gathered even for higher ages. The subjoined statement compiled from nearly 900 cases in which the age at the last confinement was 20 and below, shows the ages of the girls at nuptials in the different communities.

## STATEMENT I.

Mother's Age at consummation of marriage.	Brahmin.	Chetty.	Pillai.	Mudaliar.	Naidu.	Sowrashtta	Other Hindus.	Muhammedans	Christians.	Total.	Percentage of Column 11 to Total.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
12 . .	20	16	8	3	5	29	30	8	1	120	13.82
13 . .	20	11	14	6	8	42	33	12	5	153	17.63
14 . .	33	16	17	5	16	28	46	17	14	192	22.11
15 . .	43	22	29	2	12	17	61	20	9	215	24.77
16 . .	16	9	28	5	12	2	26	9	5	116	13.36
17-19 .	8	12	14	6	11	...	10	18	3	72	8.29
Total .	137	86	110	27	64	118	210	79	57	868	100.00

It should be pointed out that this statement is only intended to indicate that early marriages occur in almost every community; the numbers in the different columns of the table are, however, too small to be considered as representative sample of each community. Also, in view of the fact that, excepting probably the Brahmins and to some extent Mudaliars and Sowrashttas, there is considerable confusion in the nomenclature of the other sub-castes in the Hindus, too much reliance cannot be placed on the accuracy of the figures pertaining to details of sub-castes. Even subject to the above two reservations, the following statement showing the proportion of confinements in the sub-castes in ages 15 and under to the total number of confinements at this age period may be found to be of some interest:—

## STATEMENT II.

	Number of confinements in ages 15 and under.	Ratio per 100.
Brahmins . . . . .	11	8.8
Chettians . . . . .	27	21.6
Mudaliars . . . . .	3	2.4
Naidus . . . . .	9	7.2
Pillais . . . . .	21	16.8
Sowrashttas . . . . .	33	30.4
Other Hindus . . . . .	16	12.8
<b>Total . . . . .</b>	<b>125</b>	<b>100.0</b>

*Maternal mortality in the different ages.*

4. The following table shows the distribution of confinements and the maternal deaths according to mothers' age at the time of confinement:—

## STATEMENT III.

*Maternal Mortality according to Mothers' Age.*

Mother's age at confinement.	Number of confinements.	Maternal deaths.	Ratio of confinements to total.	Ratio of deaths to total.	Maternal death rate per 1,000 births.
(1)	(2)	(3)	(4)	(5)	(6)
14 and under . . . . .	38	2	55	1.63	52.63
15 . . . . .	140	4	2.03	3.27	26.57
16 . . . . .	242	8	3.52	6.56	33.06
17—19 . . . . .	1,288	32	18.72	20.23	24.84
20—24 . . . . .	3,183	33	30.99	27.05	15.47
25—29 . . . . .	1,672	22	24.30	18.03	13.16
30—34 . . . . .	869	13	12.92	10.66	14.62
35 and above . . . . .	480	8	6.97	6.86	16.67
Total . . . . .	7,882	122	100.00	100.00	17.73

It need hardly be pointed out that the most striking feature in the statement is the extraordinarily high maternal death rate when conception takes place before the mother is 16 years of age. Whereas the proportion of confinements in this age to total at all ages is about 6 per cent., the corresponding ratio of deaths is almost double this figure. It is obvious that postponement of the age of marriage will reduce to a considerable extent the greater risks caused by maternity in the earlier years.

*Maternal mortality in the different birth orders.*

5. Apart from the age of the mother, another factor which influences maternal mortality is the order of birth. This may be recognized from the following statement:—

## STATEMENT IV.

Birth Order.	Number of confinements.	Number of maternal deaths.	Maternal death rate per 1,000 births.
I . . . . .	1,440	46	31.94
II . . . . .	1,282	10	7.80
III . . . . .	1,137	18	15.83
IV . . . . .	899	9	10.01
V and above . . . . .	2,119	22	15.09
Total . . . . .	6,877	115	16.72



These figures show that the risk of maternal mortality is greatest in the first confinement, being nearly four times that in the second one and nearly twice the average rate in all birth orders. From this a very pertinent question may arise, viz., that the maternal mortality in the earlier ages is due not so much to the conception in these ages as the first birth order of the majority of these confinements. This argument does not however seem to be in consonance with the observations in the present investigation as may be seen from the following statement:—

STATEMENT V.  
*Maternal Mortality-rate in the 1 Birth Order.*

Age of Mother at time of Confinement.	Confinements. 1 Birth order.	Deaths.	Maternal death-rate per 1,000 births.
14 and under . . . . .	38	2	52.63
15—16 . . . . .	312	10	32.05
17—19 . . . . .	637	20	32.39
20—24 . . . . .	363	10	27.55
Total . . . . .	1,350	42	31.11

It, therefore, appears that irrespective of the order of birth, girls below 15 years at the time of confinement run a considerable additional risk of dying from maternal causes as compared with mothers at later years. This feature is of special significance when it is remembered that the number of the confinements in ages 15 and under exceeds 10 per cent. of the total in the 1st birth order.

6. Apart from the high death rate from puerperal causes, premature motherhood appears to have a marked deleterious influence on the child's health. For purposes of comparability, the risk of the child's death within a month after its birth (neo-natal mortality) is alone taken into account, the following being the results:—

STATEMENT VI.  
*Neo-Natal Mortality according to Mother's Age.*

Mother's age at time of confinement.	Number of births.	Deaths in children within one month	Death-rate per 1 000 births
15 and under . . . . .	176	37	210.23
16 . . . . .	236	29	122.88
17—19 . . . . .	1,357	159	126.49
20—24 . . . . .	2 101	204	97.10
25—29 . . . . .	1,642	157	95.61
30 and above . . . . .	...	112	54.15
Total . . . . .	6,743	696	103.51

7. From a preliminary statistical analysis of the raw data of nearly seven thousand confinements in three cities, the following conclusions are arrived at:—

- (a) Early marriages (in the real sense of the term) occur in varying proportions in all castes and communities.
- (b) The ratio of confinements in 15 years of age and under amounts to about 2·6 per cent. of the total at all ages.
- (c) The greatest risks of mortality from causes associated with pregnancy and child-birth are in ages 15 and under and in the first confinement: the risk of material mortality in the I Birth Order is considerably augmented when conception occurs before the age of 15.
- (d) Confinement in ages 15 and under besides being attended with additional risk to the mother's life influences adversely the chances of survival of the child.

It should be remembered that proportionate to this high maternal and child mortality, there is a vast number of invalids or physical wrecks among the survivals, the significance of which should not be lost on account of their being a burden to the individual families and to the community in general.

The conclusions arrived at from the present analysis seem to warrant the inference that the marriage of girls under 15 years of age is unfavourable both to themselves and to their progeny.

#### STATEMENT VII.

*Maternal mortality rates, by age of mother, United States birth registration area, 1921.*

Age of mother.	Deaths per 1,000 live births from		
	All puerperal causes.	Puerperal septicemia	All other puerperal causes.
Total . . . . .	68	27	41
Under 15 . . . . .	20·0	5·4	14·6
15—19 . . . . .	68	27	40
20—24 . . . . .	50	22	28
25—29 . . . . .	56	24	32
30—34 . . . . .	74	29	45
35—39 . . . . .	103	36	67
40—44 . . . . .	131	43	88
45 and over . . . . .	192	65	128

**Oral Evidence of Dr. ADISESHAN, Assistant Director of Public Health, Madras.**

(Vizagapatam, 5th December 1928.)

**Chairman:** Are you the Assistant Director of Public Health, Madras Presidency?

A. Yes. I am in charge of the Vital Statistics of the Presidency.

Q. Am I to understand that you have apparently been interesting yourself in these questions because I believe that you wanted to learn something?

A. Not only that I wanted to learn something, but what struck my attention was that compared with the maternal death rate in the west the registered death rate in this country appeared to me to be very much lower and so they appeared to me very suspicious. As a matter of fact, at the beginning, I went into one of the leading Life Insurance Companies and studied about the histories of hundreds of families and therefore I roughly calculated that the maternal death rate in the west is 15 per thousand when compared with the registered maternal death rate here which is only 4 per thousand. Even now the official figures are underestimated and that is how my enquiry began.

Q. Do you find as a fact that confinement under 15 years of age is only about 2.6 per cent.?

A. It may be 3 per cent.

Q. Do you also say that early marriages occur in all castes and communities?

A. Yes.

Q. Do you also say that in ages 15 and under, in the first confinement there are greater risks of mortality?

A. Yes. That is more or less the experience in other countries too.

Q. Do you mean to say that there are marriages in other countries below 15?

A. Yes, there are. The mortality is greater even in United States below 15.

Q. From statement No. 3 your conclusion is that a larger number of mothers die if they conceive?

A. Yes.

Q. Similarly you would infer from these that over 35 also the danger increases?

A. Yes. This relates to 100 million population. As it relates to such a big population it must have statistical value.

Dr. Beadon: Do you meet with cases of women over 45 giving birth to children?

A. We do meet such cases.

Q. You say that these statistics strengthen the conclusion that you have made in statement III.

A. Yes, because the registration of still-birth is very imperfect. In other places it is taken only 21 months from the date of pregnancy. In France children dying before they are registered are considered as still-born. I cannot give figures of still-births. I have included live births.

Q. In other places we find that still-births are treated separately?

A. Yes. Here we follow quite a novel procedure. We include maternal death rate on the total population. This is absolutely fallacious because males are not exposed to risk of confinement. Even with regard to females, girls before 11 are not exposed. It is only the married girls over 11 that are exposed to risks. In our published birth reports we always say so and we include rate per thousand of confinements. In India we did not have statistics for maternal mortality before the year 1921. In 1921 the Government of India issued an order to the Provinces to have the statistics of maternal mortality collected. Unfortunately by arbitrary order we confine the deaths from maternity to those which occur within 4 days of labour but that does not include all the deaths because as a matter of fact from analysis in Germany we find that 70 per cent. of the deaths occur within 2 weeks.

Mrs. Nehru: Where do you get these returns from foreign countries?

A. We have collected them from various sources.

**Q.** Is that information available in your books?

**A.** No. There are two countries who have carried out this sort of enquiries. The first was United States of America and the second is here.

**Q.** What about deaths of females between 10 and 15 and 15 and 20?

**A.** In other countries you will find that male death rate is in excess of the female death rate but in this country it is quite the reverse. Up to the age of 10 male rate is higher, between 10 and 14 the death rate becomes equal but between 15 and 35 the female rate which ought to be lower is consistently higher.

**Mr. Kadri:** Have you got statistics about weights of babies at birth?

**A.** No.

**Q.** During our inspection of the maternity homes one thing struck us that in the case of girls who become mothers at an earlier age the weight of their babies is more than the weight of babies born of grown-up mothers. Can you account for it?

**A.** That depends on the families they come from.

**Q.** Do you find tuberculosis among the girls here?

**A.** If medical people recognise that there is cancer called Tar cancer then I am inclined to say that puerperal consumption is one of the diseases.

**Q.** Have you got a uniform system of statistics?

**A.** So far as returns are concerned it is uniform but for percentages you have got to take the municipal figures.

**Q.** Is there any provision in any of the acts requiring births to be reported in rural areas by the parents?

**A.** Yes. So far as Madras Presidency registration rules are concerned, the Collector is empowered to introduce by notification the compulsory registration of births and deaths in certain areas in which facilities exist. In about half the Madras Presidency notification of births and deaths is necessary but the remaining half the birth and death is done by revenue authorities.

**Q.** Would you recommend that it should be made compulsory throughout the Presidency?

**A.** We have been recommending it practically every year but it has not yet been done.

**Q.** Is there any penalty attached to omission to report?

**A.** I think the penalty is Rs. 20. Under the revenue rules there is no penalty and there is no compulsion. As a matter of fact you will find that their return is more satisfactory in non-compulsory areas because in compulsory areas the registrar thinks the onus is on the population.

**Q.** So far as the municipal statistics are concerned they are more reliable and as regards rural areas there is no obligation on the parents but the obligation is on the village headman and the statistics are satisfactory?

**A.** Yes.

**Q.** Can you suggest any way of improving the birth and death register?

**A.** It is only a question of time.

**Q.** How long these records are kept?

**A.** They are permanent records both in municipal and rural areas because extracts are admissible in courts.

**Mr. Kanhaiya Lal:** Would you recommend the grant of full birth certificates to persons making a report?

**A.** Under the present act the registrar is bound to give a copy if asked for.

**Q.** Suppose a man goes and makes a report, would you give him a copy?

**A.** I think even now it is permissible. It is only some time after the registration is done that he has to pay if he wants a copy.

Q. As regards the identification of children—for instance, there are two children born, one dies and the other survives. The man may refer to the dead child as the surviving child. Is there any way of removing this difficulty. One or two suggestions have been made. One is to the effect that supplementary report should be required from the parents giving the names of the children and another suggestion is that against each report there should be an entry showing whether the child is first, second or third.

A. Both will be useful. Our forms are under revision and I have put in the suggestion that it shall be the duty of the registrar to verify within 10 or 15 days whether any name has been given to the child and if so enter the name in the register. Usually names are given within 10 or 15 days.

Q. You have recommended the verification of each entry by the registrar but if you throw the responsibility on the parents, would it be workable?

A. I think that would be unworkable. The registrar easily do it.

## Written Statements of persons not orally examined.

**Letter, dated the 27th November 1928, from Mr. P. KRISHNA MENON, B.A., L.T., Retired Deputy Inspector of Schools, Erankulam.**

Please permit me to bring to your kind notice a famous Shloka from Varahamihira's great work on Hindu Astronomy, namely, the *Hora Shastra*. It is enclosed herewith.

कुजेन्दुहेतुप्रतिमासमार्त्तवम् ।

गततुंपोडर्चमनुष्णदोधितौ ॥

अनोन्यथास्ये शुभपुंयहेक्षिते ।

नरेणसंयोगमुपैति कामिनी ॥

It is full of deep significance. The ordinary meaning, of course, is that which is concerned with the position and aspects of the planets, the Moon, Mars and Jupiter in order that sexual union may be effectual, that is, is productive of progeny. Besides this literal meaning, there are a number of other interpretations one of which I wish to bring to your notice, because it seems to me to give us some sort of authority in fixing the age at which consummation may take place. You know that Hindu Astronomers assign certain numerical values to the consonants of the Sanskrit alphabet. The second and third letters of the second line of the Shloka under reference,

namely, तत्, stand for 6+6 or 12. This indicates the age of the girl when the first menses take place. Again in the last word of the verse, कामिनी the first two letters कामि stand for 51. When inverted they become मिका and these stand for 15. It means that the girl's period of consummation commences after her 15th year and ceases after her 51st. The first two letters of the last line—नरे—indicate 20; and these letters with the letters कामि in the last word signify 20+51 or 71. The meaning is that a man attains his puberty after his 20th year and ceases to procreate after his 71st.

These interpretations are, I request you to note, neither newfangled, nor are they mine own. They are given in ancient commentaries of the work under reference. The physiological interpretation of the verse I have purposely omitted.

**Written Statement, dated the 30th August 1928, of Rajah R. K. RANGAROW Bahadur, Zamindar of Kiriampudi, etc., Estates.**

1. The people in this part of the Country are not aware that there is such a penalising provision as contained in sections 875 and 876 of the Indian Penal Code, prohibiting sexual-intercourse before 18 in marital cases and before 14 in extra-marital cases. If this legal injunction is widely known, it will be welcomed, and will under no circumstances be resented to, by all classes of

people as they understand that early consummation of marriages is detrimental not only to the contracting parties, but to their off-spring as well. So the question of satisfaction or dissatisfaction does not arise here, as the Law itself is not known.

2. I find in these parts people celebrating consummation of marriage for their girls even before the age of 13 years and the consequences are deplorable. I find girls becoming mothers at 12 and 18 years and subjected to all sorts of diseases, which resulted in many cases either in their premature death, or in their premature old age. They live all along a miserable life with their marital cases also. I am therefore in favour of extension of the Age of Consent from 14 to 16 years in extra-marital cases, and from 13 to 14 years in marital cases.

3. Crimes of seduction or rape are not common, and even unknown, in these parts. Neither the pre-existing Law, nor the amendment made in 1925, is known by the majority of the people. But somehow or other the evil exists and it exists on a very small scale. To prevent crimes of this nature, I suggest that wide publicity be given to the existing law amongst all classes of people by means of tom-tom or leaflets or both.

4. The Law regulating the age-limit being unknown, there is at present no protection for married girls against cohabitation with husbands within the prescribed age-limit. To make the Law effective, I would suggest that first of all wide publicity of the Law be made, and then the Law itself enforced. A knowledge of the Law and the fear of the punishment will, I am sure, act as an effective deterrent to prevent such offences.

5. The usual age at which girls attain puberty in these parts is 12 years. This differs according to the growth and health of the girls, but it is in no way communal. The better the health and growth of the girls, the earlier the age at which they attain puberty. The maximum age-limit is 14 years.

6. As far as I know I can say that cohabitation before puberty is very rare in these parts; but it very commonly takes place soon after puberty and even before the girl completes 13 years. I never heard of such cases going to Court.

7. Being a Hindu I can only speak from the point of view of Hindu religion. Our religion is so wide and all-inclusive even in secular matters that it always advocated Social Reform without losing the spirit of religion. Religion with us is realisation but not a theory or dogma. In so far as the institution of marriage helps realisation, religion does not interfere with it. Control of mind is insisted upon in our religion for spiritual realisation. A strong mind is what is required for this and it cannot be the outcome of a weak and degenerated body. Premature consummation leads to high physical degeneration. That was why in Pre-historic days post-puberty marriages were insisted upon even amongst the most orthodox section of the Hindu communities and child-marriages were unknown and abhorred. I don't think there is any religious injunction to the performance of early consummation of marriage and if there is any, I can strongly say that it is a subsequent invention.

8. The ceremony of 'Garbhadan' is invariably performed in these parts amongst all communities. In post-puberty marriages it always coincides with the consummation of marriage, but under no circumstances it is anterior to it. In child-marriages it is generally performed immediately after the attainment of puberty, that is on the 5th day of puberty, unless they are prohibited from doing it on account of the inauspicious time at which the girl attained puberty; in which case it will be postponed from 3 to 12 months.

9. I don't think that the attainment of puberty is a sufficient indication of physical maturity. As the average age at which girls attain puberty in these parts can be reckoned at 12 years, I think that a period of 2 years more is sufficient for the physical development to justify consummation without injury to her own health or that of her progeny.

10. I think that at the age of 16 years, a girl in this country can give an intelligent consent to cohabitation with a due realisation of the consequences.

11. I know a few cases where cohabitation before full physical development either before or after puberty resulted in premature pregnancy, which ended in the death of the girls owing to their inability to bear the heavy strain of pregnancy and also to their undeveloped condition which makes impossible easy delivery. Such premature pregnancies at the ages of 11 and 12 invariably resulted in the death of the girls, and at the ages of 13 and 14, in premature old age and in incurable disease and unhealthy off-spring.

12. I believe that early consummation and early maternity are responsible not only for high maternal and infantile mortality; but also for the intellectual and physical degeneration of the people in general. I believe that the effect is cause in another form, and that what is not present in the cause can never be found in the effect.

13. There are a certain class of people who think that a further extension of the Age of Consent both in marital and extra-marital cases is essential in the interests of their own girls and their progeny, but not with reference to the existing Law as it is unknown in these parts. General public opinion in favour of an extension of the Age of Consent can be developed by giving wide publicity to the Law and the penalties it imposes and also to the disastrous consequences which premature consummation produces. It is in this connection—that is as far as public opinion is concerned—that I make a distinction between Mr. Sarda's Bill and the contemplated extension of the Age of Consent. The former involves in post-puberty marriages to which an orthodox section of Hindu community cannot be reconciled; whereas the latter does not interfere with the age of the marriage, but it only prohibits and paralyses early consummation to which all classes of people can be made to agree.

14. I can strongly assert that women in this part of the country are not at all in favour of early consummation of marriage for their girls.

15. I have no experience as none of such crimes has gone to a Court of Law. I think there will be no difficulty in determining the age of the girls if the authorities and the public mutually co-operate with each other and such public co-operation will always be forthcoming in these parts if only it is sought for.

16. I am of opinion that the fear of punishment and the knowledge of the dangerous consequences of early consummation will act as sufficient preventives to minimise the offences of this nature. The difficulty of determining the age of the girls in the few crimes, that may be committed, may be got over if they are investigated into with the co-operation of the public.

17. I should like to make a distinction between extra-marital and marital offences, of which the former are, in my opinion, less excusable than the latter. To meet the ends of justice I propose two years' rigorous imprisonment as the maximum punishment in extra-marital offences and one year's simple or rigorous imprisonment in marital offences.

18. I do not propose that any difference might be observed in regard to the procedure of trials for the two kinds of offences.

19. In my opinion the existing safeguards are enough for the present to prevent all kinds of collusions. If by experience hereafter it is found necessary to take additional safeguards, the question may be taken into consideration at a later stage.

20. It is not the marriage, but the consummation of marriage that is producing evil effects upon society. It is to suppress this that the public are contemplating legislation. If the minimum age of marriage is fixed as in Mr. Sarda's Bill, there will be a very strong opposition from a certain class of orthodox Hindu community, wherein post-puberty marriages are not allowed. But even this opposition ceases by fixing a higher Age of Consent.



To achieve the desired object on the line of least resistance, I prefer fixing a higher Age of Consent to fixing a minimum age for marriage.

21. I am of opinion that the object in view can better be secured by means of mass-education and Social propaganda than by the strengthening of Penal Law.

**Written Statement of Mr. KOKA APPU RAO NAIDU, B.A., B.L.,  
High Court Yakil and Official Receiver, Berhampur, District  
Ganjam.**

1. There is much dissatisfaction amongst the advanced and educated classes with the existing state of law, as the legislature has been slow in moving with the growing consciousness of the people and in raising the Age of Consent in both marital and non-marital cases. No dissatisfaction was hitherto evidenced by the orthodox section or the less advanced communities, with the recent alteration of law regarding the Age of Consent, as cases of this nature were very rarely investigated and brought before Courts of Law, in this part of the country. It must be stated that a few in towns and much less in villages know about the recent changes in the law relating to the Age of Consent. The non-Brahmin community, who forms 80 per cent. of the population of the Madras Province, will cordially welcome any change in the existing law raising the Age of Consent, as there is no religious or customary prohibition to post-puberty marriages among most of them.

2. I advocate an advance on the present law of the Age of Consent. I agree with the changes in the law introduced in Sir Harisingh Gour's Bill and I even go to the length of raising the age of wife to 15 years under the new section 376 (a).

- (i) It was already high time for raising the Age of Consent. Since the days of Keshub Chander Sen who for the first time in 1871 started the campaign for raising the marriageable age of girls and indirectly the Age of Consent nearly 60 years have passed. There has been a complete revolution of thought and outlook. There has been considerable change in the ideals and aspirations of the people, on account of the wider diffusion of knowledge and closer contact with the western culture and civilisation. Yet, there is no radical change in the Age of Consent. One of the most regrettable features of the present situation is that some of those who are loud in advocating for political liberty and immediate swaraj are quite indifferent and even opposed to the grant of freedom to our mothers and sisters. Really, we are in a land of paradoxes. It is our bounden duty to see that early motherhood which is responsible for the fall and degeneracy of our country should be stopped once for all with the aid of legislature.
- (ii) Dr. Mahendralal Sircar, one of the greatest Physicians of the day, in his reply to the Government of Bengal on the Age of Consent Bill, so late as the year 1891, fixed the Age of Consent at 16, consistent with the progress of the times.
- (iii) The protection afforded by the existing law regarding marital cases is slight, as intercourse by a husband with a wife under 13 is not frequent.
- (iv) In criminal courts, it is the duty of the prosecution to prove all the elements of the offence to the hilt, without leaving any reasonable doubt. Inasmuch as under the present conditions it is difficult for the prosecution to get at reliable evidence as regards the age of the girl and for the Judge to fix the girl's

age, there must be a wider margin of advance so that some at least of the culprits may not escape scot free.

- (v) Girls below the age of 15 are not in a position to protect themselves, both by their immaturity and the position they occupy in Hindu household.
- (vi) The average girl can complete her high school education by the 15th year. Hence consummation after the 15th year will not come in the way of girls' general education and the suggested advance will foster female education to a considerable extent. Early marriage and early motherhood are the chief impediments to female education.
- (vii) What is generally called "puberty" of a girl in the 12th or 13th year is not really puberty but only pubescence or the early signs of puberty. It is only two years after the girl's pubescence, her organs, especially genital ones, are fully developed.

3. Crimes of seduction or rape outside the marital state are rare in these parts, as the people are mostly peaceful and law-abiding agriculturists. As there are limited number of such crimes in these parts and as the Age of Consent was not appreciably raised, it is difficult to notice any appreciable reduction or prevention of cases of rape outside marital state.

4. The amendment of 1925 has not protected married girls against cohabitation with their husbands even within the prescribed limit.

- (i) It has not postponed the consummation of marriage, as the police have not been active in tracing such cases and launching prosecution as it is difficult to get at reliable evidence regarding the age of the girl and most of the police officers in this Province are recruited from communities wherein early marriage and early consummation prevail with all their customary rigidity.
- (ii) It has not stimulated public opinion because the religious reformer and social worker is not satisfied without a radical raising of the Age of Consent; the political reformer is more preoccupied with his agitation in the field of politics, where he can win easy popularity; the educationists and educated classes are crying, in the name of culture, for more and more universities to manufacture some more unemployed graduates; and the lawyers, belonging to a crowded profession, are busy in making their both ends meet. Hence the days of Keshab, Ranade and Viresalingam are gone and very few workers are there to take genuine interest in the question and stimulate public opinion on the subject. Hence, the need arises for effective social legislation. Further, if the police were active in tracing out a few culprits and launching proceedings against them, public opinion would have been slowly created and gradually asserted itself in that direction.
- (iii) It has not all put off marriages beyond 13. Other causes, economic and otherwise, due to other circumstances are responsible for the postponement of a few marriages beyond 13 in communities where post-puberty marriages are prohibited. In Andhradesa we have a few cases of post-puberty marriages even amongst Brahmins. Now-a-days for all practical purposes, they are not ostracised.

I propose the following steps to make the provision raising the Age of Consent effective:—

- (a) The Age of Consent must be raised to 15, so that there may be wider field in which the Police, the public worker and social reformer can co-operate and trace the culprit and bring them under clutches of Law.

- (b) The investigation of such cases must be made by a superior Police officer, not less than the rank of an Inspector of Police and in the early years of the application of this provision, Police officers who successfully trace out such crimes may be merited or rewarded.
- (c) Steps may be taken to improve the birth and death registers both in Municipalities and rural areas. They require more checking and supervision so that the Courts may without hesitation act upon those registers with regard to the fixing of the age of the girl. These birth registers may be improved by maintaining the name of the boy or girl. I would go even to the length of suggesting that the Government should take steps for maintaining marriage and consummation.—Registers in both towns and villages. Just as the manager of a household intimates the authority concerned about birth or death within a certain period, so also he will be obliged to inform about marriage or consummation or both. This new register will contain the exact or probable date of girls' birth, date of marriage, date of consummation and even the name of the purohit or priest and relatives that attend the ceremony. This is a radical step in stimulating public opinion and postponing the consummation of marriage.
- (d) I suggest that all cases under this section including Gour's new section 376A should be tried by a Court of sessions so as to prevent hasty convictions in doubtful cases.

5. In this part of the country, girls attain puberty between 12 and 17. This age varies with the caste to which she belongs, with the environments under which she is brought up and with the customs and habits to which she is subjected. Girls living in opulence and luxury, girls of Brahmins and Vyasa castes in which early marriages are performed, attain puberty in their 11th, 12th or 13th year. Girls of educated non-Brahmin castes generally mature at the age of 13, 14 or 15. Girls of agricultural classes who work under the sun and in rain mature at the age of 15 to 17. About 70 per cent. of the population of this province are agriculturists. Hence this measure will not affect 89 per cent. of the population who adopt post-puberty marriages. However, of late, there has been a tendency amongst the ignorant masses to imitate the Brahmins and this tendency will be nipped in the bud by legislation of this kind. It is not early pubescence in this country that has been responsible for early marriage; on the contrary, early betrothals and early marriages have been the cause of the early and immature pubescence.

6. (i) Cohabitation is not common before puberty though there are stray cases under exceptional circumstances. When the husband is an aged man, where the girl does not attain puberty within the ordinary period, this sometimes occurs.

(ii) Cohabitation soon after puberty is very common among the two superior castes of Brahmins and Vysyas who are bound to perform early marriages. There are few cases in which educated Brahmins are wilfully violating the rule as regards marriage and consummation.

(iii) Amongst Hindus of all castes, age of the girl is not the criterion. Amongst the non-Brahmins who perform post-puberty marriages, both marriage and consummation generally take place at the same time. I have already explained why these cases do not come to court.

7. The practice of early consummation of marriage before puberty is not due to any religious injunction. It is the brutality of the man that is responsible for the heinous offence. The early consummation of marriage at puberty is not so much due to religious injunction but priestly and customary injunctions. If the girl attains puberty on a certain day or hour or under the orbit of a certain star, consummation must take place within six months, one month, seven days and even four days.

9. "Garbadhanam" ceremony is invariably performed in Andhradesa. It coincides with the consummation of marriage. It is performed after the attainment of puberty, soon after puberty amongst Brahmins and Vyayas and generally soon after marriage amongst non-Brahmins.

9-10. Attainment of puberty especially amongst the Hindus, is not a sufficient indication of physical maturity for consummation of marriage. Though I am not a doctor myself, common sense and the opinions of eminent doctors on the subject lead me to this conclusion. Dr. Mahendra Lal Sircar said "the commencement of the menstrual function is no doubt an index to the commencement of puberty. But it is a grave mistake to suppose that the female, who has just begun to menstruate, is capable of giving birth to healthy children. While early maturity results in giving birth to short lived or unhealthy children, it seriously compromises the health of the mother also. A host of complaints from which our females suffer life-long to which they fall early victims arise from early pubescence and early maturity". He further said that at each menstrual period there is chance of conception but as was pointed so early as in the days of Susrutha that the product of conception at an age when the mother herself has not attained her full development is not likely to be a normal human being. Dr. S. G. Chakravarty opined that Hindu, and Muhammadan girls attain to forced puberty at an early age on account of the custom of early marriage.

Hence I consider that a girl on completion of the 16th year and 2 years after maturity can become a mother, safely to herself and to her progeny. The same answer applies to Question No. 10.

12. Early maturity and consummation is not only responsible for abortions and premature births but also prematurely exhausts the couples who are silently drawn into the customary trap to reproduce before the proper season and produce weak offspring. It has been responsible for the degeneration of the Hindu race.

13. The progressive section of the educated classes are quite in favour of raising the Age of Consent. The orthodox section including that section of the educated classes who are anxious to keep women and lower castes under subjection and inferiority are against any change in that direction. The villager or agriculturist is not conversant with this problem and has no opinion to give on the subject and is almost unaffected by the recent change of law.

For further remarks, *vide* my answer to Question No. 4.

14. Except a few old persons, women generally do not favour early consummation of marriage for their children. The struggle for existence prevailing under modern conditions of life, the economic instability of middle class families, the growing demand for suitable bride-grooms, the limited circle of caste young men from whom the selection has to be made, the presence of relatives and caste men living at distant and out of the way places under the exigencies of life, the abnormal rise in the rate of "Kanyasulka"—all these factors have been influencing even the women in the household to postpone marriages and consummation of marriages. However, they are afraid of the tyrant custom.

15. I think the success of any measure with regard to the Age of Consent mainly depends upon the steps taken in proving the exact age of girls. The kinds of evidence available at present to determine a girl's age are the following:—(a) Horoscope, (b) Doctor's certificate and evidence, (c) the school certificate or register, (d) the birth and death register.

(a) *Horoscopes*.—They are generally in the possession of the culprits or their abettors. Hence, it is impossible to get at them, unless they are presented beforehand in some Court or office.

(b) *Doctor's Evidence*.—The evidence of best medical men with regard to age is very unsatisfactory. Even with regard to age of majority, they are not in a position to state accurately whether one is a minor or major. Hence, it is much more difficult for

them to determine exactly the age of a girl below 16 years. It is highly hazardous to base a conviction on the evidence of a Doctor with regard to age.

- (c) *The school certificate or register.*—Inasmuch as female education, especially in rural parts, is still in an infant stage and free and compulsory primary education is not yet introduced, the school register contains the names of very few school-going girls. Further the school authorities may be directed to take applications of admissions from parents or guardians giving the exact age of the girl. These applications and registers must be verified and checked periodically by the Inspecting agency.
- (d) *The Birth and Death Registers.*—I discussed this subject in my answer to Question No. (4) *supra*. The village and municipal authorities may be directed to maintain marriage and consummation Registers.

16. Answered already to Question No. (4) in suggesting the steps to be taken.

17. I advocate the amendments proposed in Gour's Bill. I am in favour of introducing a new section 376A, thereby separating cases of illicit married intercourse from cases of rape.

18—19. I make the following suggestions:—

- (a) That the investigation of marital offences must be made by a Police Officer not less than the rank of an Inspector and the prosecution must be launched with the sanction of the District Magistrate or Chief Presidency Magistrate. If this proposal is accepted, Section 157 of the Criminal Procedure Code has to be altered.
- (b) Medical examination of the wife may be permitted only in exceptional cases and must be done under the orders of the District Magistrate or Presidency Magistrate.
- (c) That the marital offences should be heard by a Court of Sessions, after committal by a Magistrate not less than the rank of a 2nd class Magistrate.
- (d) (i) That Section 44 of the Code of the Criminal Procedure may be amended so as to include Sections 376 and 376A of the Indian Penal Code in the Sections of Indian Penal Code mentioned in the above section.
- (ii) That Section 45 clause 1 (c) of the Code of Criminal Procedure may also be amended so as to include sections 376 and 376A of the Indian Penal Code.

This alteration in law will compel the public and the various persons mentioned in section 45 of the Criminal Procedure Code to give information of the offences under section 376 and 376A and at least prevent them from colluding with the offenders.

20. I consider that penal legislation fixing the minimum age of marriage is likely to be more effective than penal legislation fixing a higher Age of Consent for marital cases, in case the minimum age of marriage is fixed at least at 14 years. In case it is not considered desirable at present to fix the minimum age of marriage at 14 years, I advocate that legislation in both directions, may be adopted. The orthodox section who form only 3 per cent. of population are opposed to legislation in both directions and the public will welcome more the marriage legislation, as the other legislation leads the parties into questions of actual consummation, etc.

21. I already stated that it is high time for the popular representative assembly to take up the question of social legislation and penalise such acts which are the bane of India and deteriorating the Hindu race. We cannot afford to loose time any longer in working out our salvation by the slow progress turned out by social reform organisations and by education

and social propaganda. The mountainous and backward Afghanistan has been showing signs of complete social reformation and rejuvenation and it is all due to the *fatawas* or ordinances of the Afghan Emperor ordaining the people to remove the age-long barriers in the way of progress and emancipation. Even in India, the rulers of some of the Native States are forward in promoting social legislation. In this Province the non-Brahmin communities who are about 80 per cent. of the population and who are not compelled by any custom or injunction to early marriage, advocate social legislation. It is only about 5 per cent. of the population, consisting of Brahmins and Vysyas that may oppose social legislation in this direction. For the sake of these 5 per cent. of the population, the Government cannot tie its hands without legislating upon social questions. Education and social propaganda will hereafter be handmaids to social legislation. Social legislation is really the need of the hour and legislators and Government will not lag behind in passing social legislation, as it is the only radical method to eradicate the social and customary sins that are perpetuated in the name of Religion.

**Written Statement, dated the 10th November 1928, of Mr. J. RAMAYYA PANTULU, B.A., B.L., Retired Deputy Collector, Muktisvaram, Tottaramudi P. O., Godavary District.**

1. Social reformers think that the Age of Consent as fixed by the existing law is too low, while the bulk of the people consider that the law should not prescribe any minimum age in marital cases.

2. I think the law of the Age of Consent should be retained as it is. The reasons will appear from my answers to the subsequent questions.

3. Crimes of rape are not frequent in this part of the country and I do not think that the amendment of the law made in 1925 has had any appreciable effect on the extent of this crime or of seduction.

4. (1) The raising, in 1925, of the Age of Consent within the marital state may have proved effective in postponing consummation of marriage in some cases but I am not in a position to estimate the extent to which this may have been done.

(2) I do not think that public opinion has been much stimulated in this respect.

(3) Nor do I think that this law, by itself, has led to the postponement of marriage beyond 13.

5. Girls attain puberty usually at about 12 years of age. There are cases in which this event happens earlier as well as later. I do not think caste or community makes any difference in this respect.

6. Cohabitation is common soon after puberty but in several cases it is put off to a later time. Cohabitation before puberty is unusual. I am not aware of any of these cases coming before Courts.

7. Sastras say that he who fails to cohabit with his wife within a prescribed period after menses is guilty of the sin of destroying the fetus but this injunction is not considered obligatory in this part of the country.

8. The ritual of Garbhadan is almost invariably performed at the time of the consummation of marriage. The ritual takes place in the day time and cohabitation in the night. This takes place generally after the attainment of puberty.

9. Attainment of puberty must, in my opinion, be regarded as intended by nature to mark the commencement of the sexual life of a girl. In some cases, this event occurs too early owing to precocity. In such cases, it is desirable to put off consummation till the girl's body is sufficiently developed. This will vary with the constitution of the girl but generally it may be put down at 14.

10. This is a difficult question to answer exactly. But at 14, the average girl may be expected to be fit to give consent.

11. I cannot quote cases.

12. Early maternity may lead to certain evils but these are, in my opinion, greatly exaggerated by social reformers. I know cases of women who began to bear children early in life and lived to be 70 or 80 years old, their children being quite healthy. The important thing is that the husband should be well developed and healthy. The current belief in this part of the country is that older generations of men and women were healthier than the last two or three generations and that this was due to men marrying comparatively late in life—generally not before they were 30 years old.

13. I do not think that there has been any such development of public opinion, except in the case of social reformers.

14. Women generally follow consummation of marriage soon after the attainment of puberty.

15. I think such a difficulty exists. Once, I had to try a case of kidnapping a girl, in which the issue was whether the girl was 15 or 16 years old. The District Medical Officer who examined the girl said that he could not definitely say whether she was 15 or 16 years old. Compulsory registration of births may be suggested but I do not think it is quite practicable.

16. I do not see how the raising of the Age of Consent by itself would minimize the difficulty.

17. I would put marital and extra-marital offences in separate classes. For marital offences, I would prescribe fine or simple imprisonment not exceeding three months. The punishment for non-marital cases may remain as it is.

18. The difference in punishment which I propose for marital and non-marital offences involves a difference of procedure. I would not propose any other difference except that marital offences should not be tried by a court below that of a First Class Magistrate and without the previous sanction of the District Magistrate.

19. At present, I cannot suggest any.

20. People in this part of the country except a few who are advocates of social reform, would strongly resent any penal legislation fixing the minimum age of marriage. Such a law, if passed, is very likely to be broken in practice. A law prescribing a higher Age of Consent, would be less objectionable and, in that sense, may be more effective.

21. To secure the object in view, I would rely on education and propaganda and I strongly object to legislation—especially legislation fixing a minimum age of marriage. In southern India, Brahmins and Vaisyas believe that they incur unpardonable sin if they fail to marry their girls before attaining puberty. In my opinion, it is most undesirable and objectionable that mixed legislatures such as we have in India, should try to repeal the ancient Sastras on which that belief is based. The subject must, in my opinion, be treated as entirely outside the scope of legislation.

**Written Statement, dated the 20th August 1923, of Mr. P. APPARAO GARU, B.A., Treasury Deputy Collector, Godavari District.**

1. There is no dissatisfaction with the state of the law as to the Age of Consent contained in Sections 375 and 376, Indian Penal Code, as every one feels either openly or secretly that the existing law especially the amendment of 1925 is beneficial in its effects. Even should any dissatisfaction exist in regard to the age of 14 prescribed in extra-marital cases, it cannot constitute a legitimate grievance and no sympathy need be shown in such cases for obvious reasons. The limit of 13 years prescribed in marital cases is not so unduly high as to create any undue dissatisfaction.

2. There are no grounds whatever to retain the law as to the Age of Consent as it is. The Age of Consent may advantageously be raised to 16 years in extra-marital cases and to 14 years in marital cases. The former course tends to mitigate immorality. Under the existing law, sexual intercourse by a man with his own wife who is under 12 years is rape and under 13 years a lesser offence. In the interests of the health of the girl, these age-limits may safely be raised to 13 and 14 respectively, without giving rise to much opposition and dissatisfaction.

3. The crime of seduction is frequent in my part of the country but not rape. The effect of the amendment of law made in 1925 raising the Age of Consent to 14 years in extra-marital cases is not appreciable, as the offence of rape is of rare occurrence. The age-limit may safely be raised to 16 years.

4. The object with which the law was amended in 1925 raising the Age of Consent within the marital state to 13 years is, no doubt good, but cases of infringement of the law seldom come to light. The parents of the girl whose interests the law is mainly intended to safeguard, and who are the aggrieved party cannot afford to prosecute the girls' husband, as his interests and those of the girl being identical, the former's prosecution necessarily causes detriment to the latter's interests and might also result in estrangement between the two. The parents of the girl, on the other hand, are obliged to yield to the wishes of her husband and thus connive at the offence committed by him on considerations such as the following:—

- (1) that the husband of the girl or his people want that the consummation of marriage should take place immediately, or (2) that the parents of the girl are afraid that by postponing the consummation, either the girl or her husband may go astray and spoil their health or (3) that the consummation of marriage has to be celebrated during the life-time of some elderly lady who is about to die so as to enable her to see the ceremony or (4) that by postponing, an auspicious muhurtham cannot be found for a long time to come and so on. In the present advanced state of the Society, however, the law as it is appreciated by a majority of the people for whose benefit it is intended and may be availed of gradually. One effective way of booking all cases of infringement of the law and rigorously enforcing its penal provisions, is to get every girl proposed for consummation of marriage examined by a competent Lady Doctor, but this will surely give rise to considerable criticism and opposition, and after all may also fail to achieve the object aimed at, as fabrication of the girl's age and similar malpractices—will be resorted to. As this is a measure intended for the well being of the married couples and their progeny, the matter may well be left to the good sense of the parties concerned. It may be expected that as civilization advances, the beneficial effects of the measure will not fail to be appreciated by people in course of time.

5. The girls in these parts usually attain puberty at the age of 13 or 14. The girls belonging to the higher castes (vegetarians) attain puberty earlier than those of the lower castes especially labouring classes. The latter do not attain puberty sometimes even till they enter upon their 16th year.

6. Cohabitation is not common in these parts among any class of people before puberty, though such cohabitation is resorted to only rarely as where a girl does not attain puberty for an unduly long time or where consummation of marriage after puberty had in any previous instances in that family proved unhappy or inauspicious. Cohabitation is allowed after the girl has menstruated at least three times, say about 6 months after the first menstruation. Cohabitation generally takes place in the 14th year. None of these cases come to the court.



7. Early consummation of marriage before or at puberty cannot be authorities quoted on page 5 of the Satyagrahi, dated 30th July 1928, and a few other orthodox communities is that marriage (betrothal) should invariably take place before the girl attains puberty. Please see the authorities quoted on page 5 of the Satyagrahi, dated 30th July 1928, enclosed.

8. No Garbhadan separate from consummation of marriage is performed in those parts. They are both understood to be identical. The latter is generally performed about six months after the attainment of puberty as stated against Question No. 6.

9. In a majority of cases, the attainment of puberty is not a sufficient indication of physical maturity to justify consummation of marriage. A girl's physical development may ordinarily be considered to be enough about a year after she attains puberty in the interests of the health of herself and her progeny. A longer period may perhaps have to be allowed in a few cases of stunted growth.

10. An Indian Girl can give an intelligent consent to cohabitation after duly realising the consequences at the age of 16.

11. Early consummation of marriage leads to early pregnancy. I have come across cases in which cohabitation with a girl in her 12th or 13th year has resulted in injury to the health of herself and her children. I know a girl whose marriage was consummated when she had hardly completed her 12th year and who gave birth to a child 2½ years afterwards. In the meantime she had badly suffered from stomach ache, and had an abortion. The child is, however, healthy, but the mother is still very weak and anemic.

12. Early consummation and early maternity are some of the chief causes of high maternal and infantile mortality or the deterioration of the health of the mother and their children. I do not consider that any results affecting the intellectual progress of the people follow.

13. There has been no further development of public opinion in these parts in favour of the extension of the Age of Consent either in marital or in extra-marital cases, since the amendment of the law in 1925.

14. Women do not favour early consummation of marriage for their own children. The proposal for early consummation almost always emanates from the husband of the girl or his relations, especially so when the husband is a widower who had lost a wife previously. All women do sympathise with a tender girl and are aware of the evil consequences of early consummation, but those related to the girls' husband selfishly advocate his cause for fear that by not doing so they might come in the way of his pleasures and displease him or that he might go astray and spoil his health or for the reason, that some old lady wants to see the consummation before she dies.

15. The offence of rape in extra-marital cases is generally committed in fields or in uninhabited houses or other secluded places, while the offences in marital cases are committed after due announcement to all relations, friends and others. The victims of the former offence generally belong to the lower classes, as women of the higher classes do not resort to such secluded places. No evidence such as a horoscope or other record evidencing age is available for women of the lower classes. For girls belonging to the higher classes, some sort of evidence as to age is generally available, but it is not produced. In both cases, therefore, the age of the victims has to be ascertained by Medical Examination by a competent medical officer. If the Medical Officer is honest, a correct estimate of the age of girls can be had and not otherwise. The only remedy is to have the age ascertained by the highest medical officer available on the spot, who may be expected to be less susceptible to temptation than others.

16. The difficulty or margin of error in determining the age would not, I think, be materially reduced or minimised, if the Age of Consent is raised to 14 years or above.

17. The marital and extra-marital offences certainly deserve different treatment and different consideration. Different punishments have already been prescribed for these offences, but I would reduce the punishment for rape by a man with his own wife from 10 years to 7 years to enable deserving offenders of this class being dealt with under Section 582, Criminal Procedure Code. It is enough if the proposed offence of illicit married intercourse under Section 376A is made punishable with fine ordinarily or with simple imprisonment in more serious cases, but not with rigorous imprisonment. The period of simple imprisonment may be reduced from 2 years to six months to make the offence a summons case.

18. Marital offences are already made non-cognizable and bailable, whereas extra-marital offences are cognizable and non-bailable. No further differentiation is necessary.

19. One important method by which attempts are made to shield offenders from punishment is to fabricate evidence regarding the age of the girl in a manner favourable to the offender. The safeguards afforded by the existing law against collusion to protect offenders and against improper prosecution or extortion, viz., punishment for fabrication of false evidence and perjury, dismissal of complaints under Section 203, Criminal Procedure Code, and award of compensation under Section 250, Criminal Procedure Code, etc., are quite enough, and nothing further is required.

20. Penal legislation fixing a higher Age of Consent for marital cases and legislation fixing the minimum age of marriage turn on quite different standpoints and the objects aimed at are also quite different, the former being based on the consideration of the health of the girl and her progeny and the latter on other considerations such as the likelihood of a girl not getting a husband agreeable to her or becoming a widow even when she is quite young. I consider that the fixing of a higher Age of Consent for marital cases is likely to be more effective than legislature fixing the minimum age of marriage. The former will be in consonance with the public opinion in these parts including that of the Brahmin and a few other orthodox communities, as the latter might in several cases result in post-puberty marriages not sanctioned by the Sastras and religious usage. No doubt by restricting the minimum age of marriage (betrothal), the girl is enabled to make her own choice of her husband, but she cannot even though the age of marriage raised to 14 be expected to exercise her discretion wisely and properly, as the selection has to be made on many more consideration than the girl can possibly be expected to look for, and must therefore continue to be made at the mature discretion of her parents or guardians.

21. I would rely on the strengthening of the penal law to secure the object in view, as education and social propaganda can never secure it, and as a matter of fact have miserably failed to secure it all these years.

#### *Note on Mr. Sarda's Bill.*

The Bill is no doubt beneficial in its effects, but it is entirely unacceptable to the orthodox section of the Brahmin and a few other communities not because they do not realize the advantages of the proposed measure, but because of its being a departure from the time honoured custom not sanctioned by the Sastras. There is no doubt, however, that everyone would wish either openly or secretly that the provisions of the Bill were sanctioned by religion, in view of the great evils to be averted thereby.

2. Among the Brahmin and a few other communities, marriage to start with is only a betrothal and consummation of marriage takes place some years afterwards, i.e., after the girl attains puberty. In all communities, however, in which there is no religious sanction for the remarriage of widows, the chances of eternal widowhood enforced by religion are minimised, though in a small measure by the proposed legislation not to speak of the improved health of the married couples and their progeny secured thereby. It is said that another advantage is gained by restricting the age of

betrothal, viz., that the girl is thereby enabled to make her own choice of her husband instead of the matter being left entirely in the hands of her parents or guardians. It must be said to this that even though the age of marriage be raised to 14, the girl cannot be expected to exercise her discretion wisely and properly in regard to the selection of her husband, as the selection has to be made on many more considerations than the girl can possibly be expected to look for. The selection must therefore of necessity continue to be made at the mature discretion of her parents or guardians. Even in Christian countries where consent and free choice of the wedding parties have been the guiding principle, several marriages have proved unhappy and there have been several cases of divorce. By raising the age-limit, there is no doubt whatever that the girl will at least know something about her husband at the time of her betrothal, instead of her being altogether innocent about it, as is now the case in several instances.

3. In view however of the avowed policy of the British Government and the promises made in the Royal proclamations in regard to State interference in religious matters, it is I think not desirable to introduce measures of this sort in a drastic manner so as to wound the religious susceptibilities of the people and evoke their resentment to be manifested in diverse ways, but with a spirit of conciliation and gradually. To follow the line of least resistance and allow of the smooth enforcement of law, I would suggest that the Bill be so amended as to penalize the marriage of girls below 11 and of boys below 16 and the consummation of the marriage of girls below 14 and of boys below 18. There must be a clear provision in the Bill prohibiting every religious guru from excommunicating or otherwise persecuting anyone connected with a post-puberty marriage. The prescribing of higher age limits may also lead to malpractices such as fabrication of false evidence as to age and the like. I am against the provision for declaring any marriage to be invalid on any ground.

4. There seems to be a greater danger of widowhood when a man advanced in years and on the verge of decrepitude enters into an alliance with a tender girl. This evil must also be rigorously put down by penalizing the marriage of a man above 40 with a girl below 18.

**Written Statement, dated the 9th August 1928, of Srman M. G. PATNAIK MAHASAYO, B.A., B.L., Yakil, Berahmpur, Ganjam.**

1. The provisions of Sections 375 and 376, Indian Penal Code, on the question do not meet the needs of the case.

2. An advance on the present law is necessary. Sexual intercourse with a woman below the age of sixteen should be absolutely prohibited and penalised irrespective of the fact that the woman is the wife of the person who had such intercourse, as I am of opinion that physical maturity cannot be attained before the sixteenth year.

3. No. It is very difficult if not almost impossible to detect such cases. Strict registration of the ages of girls and strict watch over their life between the ages of twelve and sixteen by village Panchayat may be effective to some extent in reducing cases of rape of the kind though complete prevention cannot be expected unless public opinion grows much stronger than what it is at present. Panchayats should be authorised to institute criminal proceedings against offenders. Prosecution should be conducted by or at the expense of the State.

4. No. I would give the same answer as to question No. 3.

5. Between the ages of twelve and thirteen. Yes. Girls of the labouring classes and who have to do outdoor work and are not brought up in comfort attain puberty later than those who do not work for their bread and do not leave their houses for such work.

6. (1) No.

(2) Often though not very common.

(3) Often.

No.

7. No. Early consummation of marriage is frequently the result of the fond desires of the old men and women in the family who wish to see grandchildren and greatgrandchildren before they die. No doubt every menstruation is considered an occasion for begetting children and the neglect of cohabitation within a few days after the menstruation is considered sinful and tantamount to facilities but no penalty is prescribed for such neglect. So the injunction is merely advisory.

8. No.

9. No. At the sixteenth year.

10. Sixteenth year the age of discretion adopted in the Hindu Law.

11. No.

12. Yes.

13. No.

14. Yes, old women.

15. Yes. The measures suggested in No. 3.

16. The age should be raised to sixteenth.

17. Yes. Marital offences should be punished only with fine extending to Rs. 500-0-0.

18—19. No

2. Yes. Public opinion is against fixing a higher Age of Consent.

21. Strengthening of the penal law will be of no use unless there is progress of social reforms. Penal law should be strong enough to rouse public interest and should not be relied upon to secure what is mainly a social reform.

**Written Statement, dated the 30th August 1928, of Sreeman JUGAL-KISHORE PANIGRAHI MOHASAYO, B.A., L.T., Secretary, The Utkal Hitaisini Samaj, Parlakimedi.**

1. The exception to the section 375 is not well observed, because consummation of marriage often takes place earlier than thirteen in cases where the wife has attained her puberty before that age.

3. Such crimes are rare.

4. The law itself is not well-known in these parts much less its amendment. The custom is more honoured than law, as it is believed to be originally based upon religion. In those classes of people where early marriage only is practised it is the custom that consummation of marriage is performed sooner or later after the married girl has attained her puberty, according to circumstances, domestic, economic and religious.

5. The usual age is thirteen. It differs in different classes varying from eleven to thirteen in the upper classes and thirteen to fifteen in the lower classes.

6. (1) Cohabitation before puberty is unknown.

(2) Consummation of marriage on the 7th or 10th day after puberty, is considered to be very auspicious, but if other circumstances such as unwillingness or unpreparedness on the part of the parents of either party, the distance between them, religious objections and financial or other inconveniences prevail, it is postponed to a later date extending to a maximum period of one year or so.

(3) The above considerations weigh more with parents than age.

(4) Rare.

7. Postponement of consummation of marriage to an indefinite period of time is socially much censured.

8. No 'Garbhadan' ceremony is separately performed.

9. Not always. But it is the wish of the thinking class that consummation of marriage is postponed beyond fourteen.

10. Sixteen.

12. It is responsible to a great extent.

13. It is only confined to the thinking class of people.

14. They are very fond of seeing their daughters matured and become mothers earlier. They consider that their social prestige is at stake if their daughters get puberty at a later period.

20. Fixing a higher age, say fourteen, for consummation of marriage, will at present be preferred to fixing the minimum age of marriage.

21. The progress of social reform by means of Education and social propaganda will more congenially and effectively remedy the evils than mere legislation.

**Written Statement, dated the 12th August 1928, of Mr. P. NARA-SIMHAM, Editor, "The Dharma Sadhani," Dharma Sadhani Office, Guntur (Madras Presidency).**

1. There is at present great dissatisfaction with regard to the Age of Consent as contained in sections 375 and 376, I. P. C., as the age is too low for girls to give their consent. In the case of husbands who purchase girl for marriage and who are anxious to have their wives as early as possible there is dissatisfaction among the minor girls as well as their parents who are compelled against their will to send their daughters to their husbands at the low age of 13 as the Guardians and Wards Act makes the husband guardian in law and ousts the parents of their guardianship, so by having the minimum age of 13 they are outwitted and they are forced to send their girls to their husbands at 13. So there is dissatisfaction among the parents as well as the girls. In the case of others which frequently occurs in cases of prostitution the tender girls who are often purchased by prostitutes who want to make a living out of them compel these girls to allow themselves to be crossed over by every loafer and great harm which is often caused to the girls of 14 is a very lamentable thing for which legislation must come to the rescue. Thus there is dissatisfaction there.

2. (2) I wish that some advance may be made in the present law at least to fix the minimum age as 16 for the reasons stated above (1).

3. The Sessions Court of Guntur has on the average three or four cases of rape annually and the Magisterial Courts of seduction about 20. There is not much effect for practically there is no much improvement in the reduction of crime as the age is raised only by a year. At least 16 must be the minimum.

4. (1) Perceptibly no change is observed.

(2) Only in educated circles.

(3) No.

By enacting the minimum age to be 16 and explaining to the people the evil effects of early cohabitation by visual instruction and other means.

5. Generally among the intellectual classes the age of maturity varies between 12 and 13 and among labouring classes 14 and 15.

6. (1) People who marry at an advanced age (beyond 30 generally) have consummation of marriage even before puberty.

(2) Or soon after puberty.

(3) or even before the girl completes her 13th year.

No case has yet been registered because the wife never gives evidence against her husband.

7. There is no religious injunction which requires it. It is only stupidity and ignorance of the people who do not understand the consequences.

No law; no penalty.

8. At the time of marriage the mantrams of the Garbhadanam ceremony are uttered in all cases but no physical act is allowed unless the girl is matured. Actual consummation takes place only after maturity.

9. I do not think that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. For girls on account of bad breeding and exciting food mature early though their physical development is not complete. If 16 is prescribed as the age there will be no injury to her health or to her progeny.

10. At the age of 16.

11. There are cases when consummation before puberty ended in damaging the sexual organ, profuse bleeding and many cases of death from incapacity to deliver children.

12. Yes.

13. It is only among the educated classes but there is a general stir both for and against this movement.

14. No.

15. No difficulty because the municipality maintains registers and in villages village officers are maintaining them.

16. It will be materially reduced or minimized.

17. Yes. In the case of husbands fine and in other cases imprisonment.

18. The trial in marital cases must be *in camera* while in other cases open trials.

19. Sufficient safeguards must be provided so that the prosecution may not fall into the hands of police people who are known to be unscrupulous.

20. No. If the minimum age of marriage is fixed as 16 I don't think penal legislation is necessary. Fixing the minimum age of marriage is in consonance with public opinion.

21. I rely on the strength of the penal law.

**Written Statement, dated the 30th August 1928, of MADHUSUDAN MAHAPATRA, B.A., Kavyateertha, Rajah's Sanskrit College, Parlakimedi.**

5. In this part of the country the girls usually attain puberty at the age of 12 or 13. Some girls attain puberty before this time and some after it. This depends chiefly on their proper or improper nourishment. Among the labour classes girls usually attain puberty at the age of 14 or after it.

6. Except a small Bengalee community in the Puri District from a long time cohabitation before puberty is not allowed in any other community. In this part girls usually remain with their parents for not less than a year after the attainment of puberty and then nuptials take place. In a few cases where a man advanced in age marries a girl cohabitation generally takes place soon after the puberty. The cases in which such general rules are violated are not seen to come to court in cases of the married couples.

7. In Grihyas we find Sutras permitting cohabitation on the fourth day of the marriage. In some religious books we find the mention of

penances for the cohabitation before puberty. From this we conjecture that the post-puberty marriage was in vogue among the Hindus long ago. I think the small Bengalee community which reside in the mufasil of Puri district, Orissa, allows cohabitation before puberty simply because there is injunction for this in the Grihyas which permit cohabitation on the fourth day of marriage without mentioning anything of the puberty. In the Gobhila Grihyra Sutra preference has been given to the early marriage and still cohabitation is allowed by some authorities therein on the day mentioned above. But in this part of the country that injunction is not at all followed and even in that small Bengalee community no penalty is incurred if the cohabitation does not take place before puberty.

8. Except that small community mentioned above Garbhadan ceremony is general to all other communities. It does not coincide with the marriage ceremony but generally is held at least after a year of the attainment of puberty. Among the communities having the post-puberty marriage the ceremony coincides with the marriage.

9. We find a number of girls in well-to-do families fully developed at the age of 13 while in poor families they are hardly developed even at the age of 16. Some girls are found to have given birth to children even at the age of 13 and both the mothers and children are found healthy. Some girls though advanced in age give birth to weak children and become weak also. I think all these depend on constitution, nourishment and a proper knowledge of hygiene.

10. In India the girls are placed in a wretched condition. They are generally not properly educated. Even the girls advanced in age give their consent to cohabitation without knowing anything of its consequences. Moreover they have got such a Samskara that not to yield to the wishes of their husbands stands in the way of their good in this and the after life. In my opinion legislation can do nothing in this direction. Proper education alone can change the mentality of our females and then only they can know what is good to them.

11—12. Maternal and infantile mortality is very common in this part of the country among the middle class people. The labour class is completely free from them. This is due to some extent to the poor condition of the people and the dependence of the people for their health on the doctors. In the former generations the women knew many things to maintain their health and of their children and engaged themselves in various domestic duties which kept them healthy both in mind and body. An idea of false dignity has craved among the modern educated people and they engage servants in their houses and thereby make their females idle. A reaction to this is seen here and there and if this continues and becomes universal some good may come out of it. In my opinion law cannot remedy these evils.

13. In this part of the country even the educated people do not know that there is such a thing as the Age of Consent and the people in general do not mind it at all.

14. Women in our part generally like to see their children married and coupled at an early age.

20. I strongly believe that something may be done for the elevation of our community if the minimum age of marriage be fixed by legislation. In my community, that is among the Oriya Brahmins, the marriageable age is gradually increasing every year. A decade ago people used to give their girls in marriage generally at the age of 8 and now the age has risen to 12 and the average marriageable age at present is 11. If the minimum age is fixed at 14 the early widowhood will vanish from the society which will be free from a very heart-rending and cruel system. It is very necessary under the present circumstances of the society.

21. Penal laws are necessary both for education and social progress. Our Smritis stand as witness to this.

**Answers to M. R. Ry. Rai Sahib N. RAMAMURTI NAYUDU GARU,  
HULET, M.D., Mission Hospital, Yuyyuru, Mistna District.**

2. (1) Enough public sentiment as to the law.
3. Not that. I know of only one case that has come under my observation in 28 years.
4. Quite a bit of sentiment has been aroused but this is due to other influences rather than raising Age of Consent as many are not cognizant of this law.
5. From 10 upwards. Depends more on state of health.
6. (1) The class of cases in which this has occurred are those in which puberty has been delayed beyond 11 years and husband threatens to marry some one else if consent is not given.
- (3) Yes.
- No.
7. The usual reason given is that they are afraid the girl may fall into sin. If a girl should fall into sin she must do away with her life rather than shame her people.
9. No. For with marriage may come pregnancy and what child at 11, 12 or 13 should become a mother?
11. Yes, quite a number and pitiable cases—mentally and physically. If not actually T. B. a wasting that no amount of rest or medicine seems to avail.
13. I do not know of any.
14. Yes, for reasons above given.
21. Progress of social reform by means of education and social propaganda.

**Answers of M. R. Ry. Rai Sahib N. RAMAMURTI NAYUDU GARU,  
B.A., Retired Deputy Collector of Municipal Councillor, Berham-  
pur.**

1. The part of the country in which I live is rather backward. A great majority of the population is illiterate. I have not heard of a single case of rape within the marital state. It is only in the last two years that extensive propaganda has been carried on in newspapers and at public meetings as to the undesirability of cohabitation with a girl under sixteen years of age from physiological, medical, and other grounds. So dissatisfaction with the present state of law as to the Age of Consent is at present confined to educated and advanced classes of society who complain that the legislature has not kept pace with the growing consciousness of the educated people who desire that the Age of Consent should be raised both in marital and non-marital cases.

2. An advance should be made on the present law as to the Age of Consent, as the educated women of the country are almost unanimously of opinion that cohabitation at such an early age, as is in vogue at present, is injurious to the best interests of the country. I would therefore uphold the provisions of Sir Hari Singh Gour's Bill. I would even go to the length of substituting "fifteen years of age" for "fourteen years of age" in the proposed Section 376A.

3. Crimes of seduction or rape even outside the marital state are very rare in these parts, as most of the people are peaceful and law-abiding agriculturists.

4. The amendment of 1925 raising the Age of Consent within the marital state to 13 years is known to very few persons, but the propaganda



above referred to, has been effective to some extent amongst educated classes :—

- (1) in postponing the consummation of marriage,
- (2) in stimulating public opinion in that direction, and
- (3) in putting off marriage beyond 13.

I suggest that the law may be amended as proposed, as it would strengthen the hands of social reformers and other public men in educating public opinion and spreading right views on the matter amongst the masses.

5. Girls usually attain puberty between the ages of 12 and 16 in this part of the country. This differs in different castes and classes of society. Sometimes, it depends upon the constitution of the girl also. Girls in Brahmin, Vaisya, and other castes in which early marriages are performed, usually attain puberty when they are 11, 12, or 13 years old. Girls in other well-to-do classes of society generally attain puberty at the ages of 13 and 14. Girls who have to do hard manual labour to eke out their livelihood, attain puberty at the ages of 15 and 16.

6. (1) Cohabitation is not common among any class before puberty.

(2) It is common soon after puberty amongst Brahmins and Vaisyas.

(3) Cohabitation takes place amongst Brahmins and Vaisyas before the girl completes 13 years, if she attains puberty.

None of these cases has come to Court. Though I exercised first class magisterial powers for more than twenty years, I have not heard of a single case.

7. There is no religious injunction I am aware of requiring the early consummation of marriage before or at puberty. On the other hand, there are Shastric injunctions requiring postponement of consummation if a girl attains puberty under the orbit of a star inauspicious for that particular event.

8. "Garbhadan" ceremony is usually performed in this part of the country. 'Garbhadan' is understood in these parts to mean consummation of marriage. It is performed soon after puberty in Brahmin, Vaisya, and other castes in which early marriages are performed. In other castes where post-puberty marriages are allowed, it is performed generally in continuation of marriage.

9. The attainment of puberty is not sufficient indication of physical maturity to justify consummation of marriage. A girl's physical development may be considered enough two years after puberty unless she attains puberty so late as the age of 15 or 16 to justify consummation of marriage without injury to her own health or to that of her progeny. I may note that this is the opinion of eminent Doctors and noted ladies.

10. The age at which a girl in India is competent to give an intelligent consent to cohabitation with a due realization of consequences, depends upon her education and intellectual attainments. Most girls are incompetent to give such a consent unless they attain the age of 16 years. So this factor may be left out of consideration in discussing the proposed Bill.

11. I know of cases in which cohabitation with a girl at the age of twelve years before puberty made her prematurely old or led her to an early grave.

12. Yes; that is what is being preached at all the gatherings of social reform societies and female associations in all parts of India in the last two years.

13. Yes. It is confined to the educated classes. The preachings of social reformers have not yet reached the masses in this part of the country. They are not accustomed to read or hear even vernacular newspapers.

14. Generally women do not favour early consummation of marriage for their children.

15. Cases of abduction are very rare in this part of the country. All the cases of rape I have come across are those alleged to have been com-

mitted without the consent of the female. So, the question of age has not arisen in these cases.

16. The difficulty or margin of error will not be materially reduced at the ages of 14 and above. I understand that eminent Doctors have deposed in Courts that it is well-nigh impossible to determine the age of a boy or girl by medical examination after he or she is above twelve years of age.

17. I would separate extra-marital and marital offences into different offences. The provisions of Sir Hari Singh Gour's Bill as to punishment, are suitable. I am in favour of introducing a new Section 376A, thereby separating cases of illicit married intercourse from those of rape.

18—19. I would make a difference in the procedure of trials for offences within and without the marital state. The ordinary procedure may be followed in regard to offences outside the marital state. As regards offences within the marital state, I make the following suggestions:—

- (1) The police should have nothing to do with the investigation of these offences.
- (2) The previous sanction of the District Magistrate or the Chief Presidency Magistrate should be obtained for prosecution.
- (3) The cases should be tried by a Court of Sessions after committal by a second class Magistrate.
- (4) As the Police will have nothing to do with these cases, the public may be required to give information regarding the commission of these offences to the District Magistrate or the Chief Presidency Magistrate, as the case may be, under provisions similar to those contained in Sections 44 and 45 of the Criminal Procedure Code.

20. Penal legislation fixing the minimum age of marriage at fourteen for girls will certainly be more effective than fixing a higher Age of Consent at fourteen. The fixing of the minimum age of marriage at fourteen is in consonance with public opinion. A considerable proportion of Brahmin ladies are also in favour of legislation fixing the minimum age of marriage for girls at fourteen.

21. I am in favour of the strengthening of the penal law to secure the object in view. The progress of social reform by means of education and social propaganda is very slow. In other countries and even in the Native States of India, social reform has been accelerated by means of legislation. The same course should be adopted in British India also.

**Written Statement, dated the 3rd September 1928, of Mr. K. KRISTNAVENAMMA, President, District Educational Council, East Godavari; President, Sree Vidyarthini Samajam; Honorary Secretary, Local Branch of the Indian Red Cross Society; and Lady Municipal Councillor, Cocanada.**

1. Yes. The Age of Consent should be raised to sixteen in all cases.
2. (2) An advance must be made on the present law. I do not consider that a woman under sixteen is either mentally or physically fit to realise the consequences of the act that she is giving her consent to.
3. I cannot give any definite information on the point. Such things come to my knowledge very rarely but that need not necessarily mean that such occurrences are few here. The masses in general do not seem to have any knowledge of the amendment of 1925 and as to the success of the amendment I have no definite knowledge. The measures that I would propose are to raise the age still further to sixteen and educate the masses on the point by publishing the information in all the vernacular newspapers for a number of days in succession and such other methods.

4. It has not been effective in any of the three directions enumerated. The steps to make the amendment more effective are:—to raise the Age of Consent even in marital state to sixteen, to keep the masses informed about the rule and the punishment attendant upon its violation and also to make registration of marriages compulsory.

5. In communities where pre-puberty marriages prevail the age is generally 12 (twelve) and is even lower and in other communities 13 or thereabouts.

6. (1) It is very rare before puberty in any community.

(2) It is very, very common soon after puberty in communities that perform pre-puberty marriages.

(3) It is the attainment of puberty that generally matters, but not the age.

I do not know if any of these cases come to court.

7. Pre-puberty marriages are enforced by religion amongst Brahmins and Vaisyas and in communities akin to them. If a girl is known to attain puberty before marriage, the family to which the girl belongs is excommunicated. I cannot quote any authority but it is the custom prevailing.

8. 'Garbhadan' ceremony as a function apart from the marriage is performed in communities mentioned in No. 7 and also in some low class people who perform marriages before puberty though there is no religious compulsion that they should do so. It very rarely coincides with marriage when it is performed before puberty. It is never anterior to marriage. It is generally performed sooner or later after the attainment of puberty there being no time limit but there is always a tendency to finish it off as early as possible after puberty.

9. I do not consider the attainment of puberty a sufficient indication of physical maturity to justify coition. At the age of sixteen and about three years after puberty, a girl's physical development may be considered to be enough to justify coition without injury to her own health or that of her progeny.

10. She must at least be sixteen.

11. I hear of such cases, but I do not know any details to give an account.

12. I consider that they are, to some extent, responsible for the high maternal and infantile mortality.

13. Not much, and even the little that there is, is not due to the amendment of the law.

14. Old women generally do.

15. I do not know if there are any such difficulties, but if they do arise, an age certificate from a registered Medical Graduate may be asked to be produced.

16. I think it would better matters if the Age of Consent is raised to 16.

17. Yes. I would surely. As I have no knowledge of Penal Code or the Criminal Procedure Code, I cannot prescribe the nature and amount of punishment.

18. I am not sufficiently informed to be able to give an opinion on the point.

19. A special tribunal consisting of some ladies also may be appointed to which all such cases are to be referred, both by the prosecutor as well as the alleged offender. This tribunal will have to go to the house of the offender and see into the offence.

20. I consider the latter alternative to be more effective, though the former would be more in consonance with public opinion of the orthodox part of the country.

21. I would prefer the Penal Law.

**Written Statement, dated the 23rd August 1928, of Mr. ARYA-SOMAYAJULA SOMAYAJULU, Vaidiki Brahmin, Temple Street near Roman Catholic Church, Vizagapatam.**

1. In these Andhra Districts, girls are attaining puberty at ages of 12, 13 and 14 years (*i.e.*, when they complete 11, 12, 13 years and 12th, 13th, 14th years are still passing by respectively). Rarely some girls are maturing in their 11th year of age and 15th year of age. Some girls attain puberty very rarely at an age of 16. There is not any difference whatsoever in the above ages in different castes except labour classes and poor farmers in whom girls mature at a little higher ages for want of proper nourishment and food for filling up their stomachs every day.

2. The Government may fix the Age of Consent as 16 in the case of unmarried girls or even 18 as no Hindu consents to admit a rowdy to carry off a girl from her parents at 16 years or before she becomes a major.

3. The Age of Consent for married girls at present is 13 years and no Government officer takes any action when a husband demands his wife before puberty or even before she completes 12 years. Hence raising it to 14 years is quite unnecessary for the following reasons:—

(i) It is not practicable to enforce it.

(ii) If it is enforced you are making the condition of Hindu girls even worse than at present. Their troubles and miseries will be numerous. (1) Males aged to 25 or even 30 years, *i.e.*, bachelors marry girls aged 6-12 years. A bridegroom by the time of his marriage attains full youth at 17, 18 or 20 and some youths are entering into malpractices from an age of 16. By the time their child-wives mature they are becoming skeletons or even though strong, spoil their health by illegitimate intercourses with filthy women like dancing girls and others of the sort. The misery of pure girls who meet their above described husbands is already too much. (2) Some husbands are having permanent concubines meanwhile and never like their child-wives even after they join them. (3) Girls mature at an age of 11 or 12 and if they are left off for 2 years more without joining their husbands, their above miseries will increase and some husbands or even most of them foolishly hold unreasonable suspicions towards their wives and even venture so far as to divorce them altogether.

So I wish to point out that it is not safe for girls if Government come in the way of their husbands from joining their wives.

If Government penalize that a girl should not be married before she completes 12 years (*i.e.*, she must be married in her 13th year or hence) and that a boy cannot marry before he completes 17 years (*i.e.*, he can marry in his 18th year) it will be highly beneficial to the whole country. A girl should complete 12 years (or at least 11) by the date of her marriage. Unless this is penalized the Age of Consent is a cry in the wilderness or a mansion in the air.

It is sufficient if Government fix the minimum of marriage as 13 (*i.e.*, 12 years completed) in the case of girls and leave the rest to the people. The people, *i.e.*, the parents will themselves raise the age of marriage to 14, 16 or even 20 as they like or as it suits them.

Raising the age of marriage to 14 (complete) is meeting the discontent of the mob also who are for marrying their girls, the very next day after puberty. Let there be no penal objection for that. Even in the 13th year. They cannot really marry girls the very next day after puberty. This discontent of the mob is strengthening the so-called orthodox people whose Sastraic objections are unreasonable and not supported by the Vedic hymns recited from beginning to end of marriage ceremony. Hence I wish to point out that the question of fixing the Age of Consent in the case of

married girls may be altogether dropped to assist the passing of the age of marriage bill somehow or other. If Government are afraid to fix the age of marriage as 14 or even 13, they can fix it as 12 or 11 which will remove the evils of the country far more than this Age of Consent in the case of married girls. This is likely to kill away the age of marriage bill. The age of marriage bill should have some effect or other on foolish parents at least who marry their girls before they complete 10 years even trading its feet on the ruins of the Age of Consent bill.

**Written Statement, dated the 26th August 1928, of Tahavar-O-Jaladat Dastagah M. YENKATADRI APPARAO Bahadur, Zamindar, Yuyyur Estate.**

1. There is neither dissatisfaction nor satisfaction as regards these sections (375, 376) as the law is mostly a non-entity. A time of 3 or 5 months after puberty is generally the beginning of the sexual life of a girl; and many do not know the existence of a law.

2. I should like the law should be retained as it is, as it coincides more or less with age of maturity in girls; and it should be difficult to enforce the law, if the age limit is raised. But I should like difference removed between marital and non-marital offenders; My reason being, that a married husband, who knows that he is united for life with his wife, has the least cause for untimely offence and should show that control and discrimination, which are beyond the scope of an unmarried offender. The punishment of an unmarried offender may be heavy, but it must be only on account of his being unmarried. Age difference in the sections between unmarried and married offenders is unreasonable.

3. No. Such cases are rare. The amendment of 1925 made no difference. There are cases of seduction for immoral purposes, and the causes of these are :—

- (1) Poverty where women have to earn a living by un-chastity.
- (2) Enforced widow-hood in early life.

For the first cause of the above, I can suggest no palpable and immediate remedy through legislation. However the woman of this class are gradually coming to see that marriage is more efficient in the promise of a livelihood for woman than prostitution.

As for the second cause, I should propose compulsory re-marriage of all widows below a certain age by putting a heavy tax on them; if such law is workable and husbands procurable; social reform has done something but not enough. A general scale of rewards for men remarriaging widows, who by custom are not allowed to remarry, will tend to popularise widow-marriage. Such people should receive encouragement by offering of services, etc., with special privileges.

4. The law has made no difference, as it is most difficult to investigate or control the sexual conduct of married couples.

The remedy to my view is making marriage itself illegal as before a certain age and see that it worked strictly according to birth register.

5. Thirteen is the age of puberty of most girls in these parts, but some of the girls of the richer classes come off a year or so earlier.

6. (1) No. The sense of society will abhor such.

(2) About three months after. Yes.

(3) Yes.

No cases come to court.

7. In some classes (Brahmins and Vysyas, etc.), marriage is compulsory by custom before puberty, and where it happens that girl of this class does

happen to mature, the matter is kept secret within the family till after marriage. I am told that there are no penal rules or injunctions against marriage after puberty in any sastras or books of Hindu religion.

8. In classes where marriage is performed after puberty 'Garbhadan' is performed on the last day of marriage; and in classes who marry before puberty, sexual life commences usually on a good day some three months after puberty.

9. No. Puberty is merely the sign, in human beings, that the girlhood has begun to go, and womanhood has begun to come. A woman naturally does not attain her full development or beauty till she is well near twenty years of age. But that is too long (in India at any rate) for the postponing of sexual life of women. A delay of one year after puberty may be the general time; as by then the sexual organs of a woman may be expected to develop to suit child birth.

10. No girl (or boy for that matter) realizes the full consequences of marriage till after the birth of her first progeny. The age of intelligent consent may not be till a girl is sixteen or more.

11. I am of opinion that cohabitation itself, if attended with child-bearing or venereal diseases, will not show much outward signs of bad health on a girl or a young woman, but, it (very early sexual life) tends to injure her internal organs and make her unfit to bear children; and also may bring on premature old age.

12. Yes, undeveloped (and unhealthy) wombs do bring forth weak progeny.

13. There is no difference.

14. Yes. The general idea is to see the girls well married as soon as possible. But those who can afford to procure a good husband, generally keep their girls unmarried, until the girls are grown fit for child birth.

15. Such offences rarely come before the authorities. The only remedy for determining the age of girls is maintaining a proper birth register in every village periodically examined and brought forward by proper authorities.

16. It would make no difference; provided the above register is maintained.

17. I would make no difference for reasons stated under question No. (1) except that the unmarried offender is to be made responsible for also the economical loss to the girl.

18. There should be no difference. The procedure of such trials is to be kept strictly confidential and the cases of forcible offences against girls may be treated equal to arson and almost equal to capital offences.

19. No. Except that persons of highest honour and deepest sympathy should only be employed to enquire into such cases; and those who collude in protecting the offender (usually the man) should also bear the burden of the economical loss to be recouped to the girl. The employment of educated woman over enquiries may tend to make matters easy; but I am of opinion that the constitution of advisory committees, chiefly, the female members of which give, not platform lectures, but sympathetic information to mothers and girls by household conversation will go a long way in educating the public opinion.

20. No. I am of opinion that law which fixes the minimum age of marriage is more useful. Penal legislation against offenders is the more difficult to work. Of course if the moral standard of the people be very low, the raising of minimum age may tend to increase the offences, but I do not believe that as education spreads such offences will continue to disgrace society for long. An educated girl ought to know the consequences of giving herself up to a man.

The public will probably favour the penal legislation or that would least interfere with the existing practices.

21. Education and social reform may do something; but in a caste and custom ridden country, legislation, though it tends to be unpopular will be more effective. Take for instance the "Satee" abolished by Lord Bentwick. Supposing, without legislature, they had begun to lecture and educate the people not to burn human beings alive, should that cruel practice have been a thing of the past, no. But that was an easy affair for law to interfere and stop. Not so, to control this matter under question, without the co-operation of a large section of the population.

**Written Statement, dated the 25th August 1928, of Sreeman HARIHAR PANDE, Mahasayo, B.A., Secretary, Oriya Samaj, Ganjam.**

1. As there is general ignorance of consequences among the people in these parts of early marriage and maternity, there is no dissatisfaction under present law.

2. (2) It is necessary and desirable to make an advance on the present law for the promotion of the condition of the people as enjoined by science as well as their respectability in the world.

3. No.

4. No. Cohabitation with husbands in these parts within the prescribed age limit if ever, is a matter of rare occurrence and hardly come to public notice.

5. Girls attain puberty between 13 and 14 generally. I am not aware of any appreciable difference between different classes in the feature.

6. (1) No.

(2) Yes.

(3) No. No cases of the kind have come to court.

7. I am not aware of any religious injunction in favour of early consummation of marriage.

8. No Garbhadhan ceremony is performed at the time of the consummation of a marriage.

9. No. The age of 14 may fairly be taken as enough for development of body of a girl after puberty.

10. I am not prepared to answer this question.

11. No.

12. Yes.

13. Generally, extension of the Age of Consent is desired by the educated classes while that desire is latent in the rest or rarely expressed.

14. Women in these parts are not in favour of early consummation of marriage unless the girl is 14.

15. No. There are no instances.

16. Quite possible.

17. I am in favor of differential classification. I would prescribe greater punishment for marital offences.

18. I am in favor of privacy being observed in the procedure in the trial of marital offences while the trying officer might be given the discretion to extend the privilege in the deserving cases.

19. No.

20. Legislation prescribing the minimum of marriage will be more effective but the public opinion in these parts will be against it.

21. I rely on both.

**Written Statement, dated the 25th August 1928, of Rai Sahib C. K. REDDI, B.A., Vice-Chairman, Municipal Office, Berwada.**

1. Yes, there is. 14 years is too low for the girl to give consent. She cannot be expected to reach at that age that stage of understanding when she can rightly think of the consequences of her action.

2. (1) It ought not to be retained.

(2) In the case of an outsider the age should be raised from 14 to at least 16: the more the better.

In the case of the husband, the age must be raised to not less than 15 years. I wonder however why there should be any difference at all with regard to husband and outsider, as prematurity of the girl is the thing which is objectionable.

4. No, it has, had no effect. There are many cases especially among Brahmins and Vysyas, in which girls between ages 10 and 12 are victimized by enforced consummation.

Unless marriage is put off beyond 14, there is no remedy for this evil which is the besetting sin of the Brahmin and Vysya communities in these parts.

5. Girls among Brahmins and Vysyas attain puberty at about 11 years and among other communities at about 13.

6. There are many cases of cohabitation under the cover of marriage, especially among Brahmins, before puberty, soon after puberty and before the girl completes 13 years.

None of these cases come to Court for obvious reasons.

7. There is no religious injunction for the practice of early consummation of marriage except custom which may be trotted out religious sanction before people who are all ignorant.

8. There is 'Gharbhadan' ceremony in these parts which coincides with consummation of marriage which is performed immediately after the so-called puberty.

9. Certainly not. The so-called puberty which is attained at a very early age in these parts is partly due to the climatic conditions and partly to the atmosphere that prevails in Hindu homes that a girl is born only for child-bearing. Moreover in Brahmin and Vysya families after marriage before puberty, girls are more or less over fed and prematurely ripened for consummation purposes.

Unless a girl is allowed to develop herself until she is eighteen, she can't be either a fit mother or a healthy woman.

10. Unless she is 17 or 18 she can't be expected to weigh the pros and cons of the matter.

11. Why, it is our daily experience in these parts, almost each Brahmin boy and girl is an illustration of the effect of this pernicious custom. It has mainly contributed towards the degeneracy if not the decay of the nation.

13. Except pious hopes I don't think there is any public opinion at all in this matter.

14. Ignorant women may do; but that should not be allowed to count. However when once they are enlightened they will not and do not.

16. Yes.

17. and 18. There need be no difference made for reasons stated *supra*.

20. Legislation fixing the minimum age of marriage is a consummation which everybody devoutly wishes for.

21. Progress of so-called social reform will effect but precious little, considering the mentality of the people. The strengthening of the Penal Law alone will enable us to achieve the object in view.



**Written Statement of Captain P. Y. R. MURTY, M.B., Late I.M.S.,  
Cocanada.**

1. Yes, because the two sections Nos. 375 and 376 of the Indian Penal Code do not generally touch the public in their daily life, where young girls of the ages of 18 and 14 are concerned and the rape cases that come before the Sessions Courts are generally common among grown up women and men. woman of loose morals leading a life of prostitution and men belonging to the lower strata of life.

2. Yes, I am of opinion that the law of the Age of Consent should be retained as it is as per Sir Hari Singh Gour's Bill or I am in favour of making an advance on the present law, by increasing the Age of Consent up to 18 years. The reasons for this are, the girl is not fully developed mentally to understand and realise, what is meant by sexual intercourse and its consequences in her future life, except understanding the sexual act as "every body is doing it".

3. Yes, crimes of seduction among respectable as well as lower classes of people are common, and rape is not so frequent. The amendment of the law made in 1925, raising the Age of Consent to 14, is a total failure and useless in this part of the country, as it did not prevent cases of rape or the improper seduction of girls for immoral purposes, and people, either men or women, are not aware of any such act in existence. The measures I propose to be adopted to make the law effective are as follows:—

- (i) To translate the law into Vernaculars of all the different provinces of India and broadcast among the general public.
- (ii) By giving more direct powers to the Sub-Magistrates and Deputy Collectors to deal with such cases and not to the Police who are reputed to be very corrupt and dishonest in hushing up these cases by receiving illegal gratification of money.
- (iii) By selecting four or five respectable gentlemen and ladies of good character to form into a committee, to enquire into these cases and bring them to the notice of the authorities and also to arrest the parties concerned if necessary, even without any report being filed by the woman who is raped.

4. No.

(a) By postponing the consummation of marriage, it does not help the amendment of 1925, in the least, because the parents of the girl who will adopt all sorts of devices, such as faked-up horoscopes and faked-up evidence and witnesses either bought up by money or coaxed to give evidence in their favour.

(b) Stimulating public opinion in the direction will not have any effect on such a conservative people of India, especially the Hindus, who are mostly priest and religion ridden in every act of their daily life, and these people can only be brought to their senses by an act of legislation.

(c) Yes. But putting off marriage beyond 16 for girls and penalise marriages under 16 by an act of Legislation, is the only method of protecting these girls.

5. Girls attain puberty in my part of the country when they are 12. Castes, communities or classes of Society does not make any difference in the age.

6. No.

(i) (a) Cohabitation before puberty, though not very common, in the part of the country, yet there are instances where the husband and the wife live together before the wife attains puberty. Cases of this nature usually occur with men, who marry a second time or a third time.

(b) Where the attainment of the puberty of the girl is delayed by some constitutional or organic disease in the girl, hereditary or family tendency.

In these cases the husband of the girl urges on the parents of the girl to perform the Garbhadan ceremony having an erroneous idea that the girl would attain puberty if the ceremony is performed.

In my opinion all these cases come under legalised rape and nothing short of it.

(ii) Cohabitation soon after puberty even on the 7th day after puberty is common in this part of the country, more among the Brahmins and Vysyas, because the priests and purohits say that no *mohurtam* or auspicious day is necessary if Garbhadan ceremony is celebrated on the day of her bath.

(iii) Cohabitation before the girl completes 13 years is common, but the age of the girl does not determine the time of cohabitation, the only criterion to judge that the girl is fit for cohabitation or not, is not the age of the girl, but her first menstruation is the determining factor to make her cohabit with her husband, though the girl in some instances is only 10 or 11 years old.

None of these cases come to the court.

7. The practice of early consummation of marriage is attributed to religious injunction which is more or less a degenerate social custom backed up by the half-learned and ignorant purohits and pandits who have not got brains to correctly interpret the vedic law of marriage. These purohits and pandits twist and interpret the vedic mantra in such a way as to suit the wishes and desires of the parents and guardians of the bride. The sole aim and object of these ignorant purohits is monetary and nothing else. If any one transgresses this so-called practice, the penalty is ex-communication from the caste and social ostracism and the parties are put to all sorts of troubles and difficulties in their social and daily routine of life. This fear of social ostracism bends any man of determined resolution and makes him yield to the degenerating and devitalising wretched custom.

8. 'Garbhadan' ceremony is performed in every caste in this part of the country. Among the Brahmin and Vaisya castes, the Garbhadan ceremony does not coincide with the consummation of marriage but it is performed after the girl attains puberty on any day after the first menstruation up to 1 year. Unless this ceremony is prevented by some so-called religious injunctions, such as bad star reigning on the day of first menstruation of the girl. But the Garbhadan ceremony is never postponed to more than a year after puberty. In the Kshatriya and Sudra castes the consummation of marriage concludes with the Garbhadan ceremony on the last day of marriage.

If the girl does not attain puberty at the time of marriage, the Garbhadan ceremony is postponed till after puberty of girl and is then performed any time within a year or two (ranging from a few days onwards after puberty).

9. An emphatic 'No' is my answer to this question. 16 to 18 years is the minimum age at which a girl's physical development is considered to be enough to justify consummation without injury to her own health and that of her progeny.

10. A girl in India between the age of 16 to 18 years is competent to give an intelligent consent to cohabitation.

11. During my experience in social circles where the girls are being made to cohabit before puberty forms a small percentage, say about 10 per cent. Cohabitation immediately after puberty, but before full physical development of a girl is a general rule, rather a national custom or habit, more especially among the Hindus of all castes and the Musalmans in this part of the country are more prone to imitate the Hindus in this wretched custom. This early cohabitation of a girl before full physical development is reached is resulting in injury to her health, body and her progeny. The injuries are :—

- (i) General and nervous debility of the girl, giving rise to Leucorrhoea, Hysteria, Indigestion, Anaemia and prematurely getting old having a haggard look. All these conditions conduce to the lowering of the general vitality and resisting powers to disease.

All the above complaints lead to such grave and serious illness, such as consumption resulting in a great percentage of girl-wives mortality.

- (ii) Almost all these girl wives conceive two or three times, before they attain the age of sixteen and they have not sufficient strength and vitality in them to stand the great and awful strain of child-birth; some dying during child-birth or some sowing seeds of insipient Tuberculosis, during this stage of lowered vitality and thereby leading in future a life of chronic ill-health. Then after this, subsequent location and nursing of the child, still lowers the already lowered resisting powers of the mother. The children born of these girl-mothers are puny and small in build, with feeble digestive powers resulting in having recourse to medication from even a few days after birth and if they have any vitality they survive these doctors and medicines justifying the saying, 'Survival of the Fittest'. The effect on the boy husbands of these girls owing to frequent playing of these boy husbands, with their new toy of a girl-wife and not realising the serious and the evil effects it will have on their health in future, is more devitalising and degenerating in stunting the growth and full physical development of the boy to strong, healthy stalwart manhood. The effects on boys that are chiefly observed by me in my professional capacity are as follows:—

Indigestion, constipation, physical exhaustion on slight exertion, reduction of manly power or vigour (partial impotency) before they attain the age of 20 to 25 years. All these conduce to the reduction of mental and intellectual powers, thereby paving the way to early death. The children born of these boy and girl couples are weaklings and have not sufficient vitality to resist the invasions of even the slightest disease. Most of these children suffer from intestinal trouble, such as infantile diarrhoea, lung troubles, etc. The high infantile mortality in India is due chiefly to the above mentioned diseases.

12. Early consummation and early maternity are the chief and foremost causes for the high maternal and infantile mortality. There are also other causes for high mortality rate. The chief of these causes is venereal infection of the father. These causes are vitally affecting the intellectual and physical progress of the people, thereby producing a degenerate and devitalised nation.

13. There is no, nor even a sign of any further development of public opinion in this part of the country, in favour of an extension of the Age of Consent, since the amendment of the law in 1925. Practically people do not appear or aware of such a law except a few educated vakils and educated public.

14. Except a few women who received English education up to the Standard of High School and College, the rest of the women folk of all castes and communities are steeped in total ignorance about the evil effects of early consummation of marriage, this ignorance, being reinforced, by the sayings of ignorant and half-learned purohits, traditional and national customs and habits, so that they are not in a position to give an independent opinion for or against early consummation of marriage. Even if a few women are bold enough to give such opinion they hesitate to give out for fear that they might be made the butt of ridicule, by their orthodox husbands, relatives and friends. Hence their mouths are shut up.

15. It is very difficult to determine the age of the girls in connection with offences under sections 375 and 376 of the Indian Penal Code; because the wisdom teeth do not cut at that age and also some other signs are not fully developed. The Magistrate has to depend on the physical appearance, faked-up horoscopes, certificates issued by some medical men who are not very scrupulous about their personal honesty and dignity of the profession to which they belong.

The measures, I suggest to reduce or minimise these difficulties, is to raise the Age of Consent from 16 to 18 years both for marital and extra-marital intercourse and to pass an act of legislation imposing very heavy fines or imprisonment or both.

16. If the Age of Consent is raised to 14 years it does not in any way reduce or minimise these difficulties. Raising the age from 16 years and above would greatly minimise these difficulties.

17. I would not separate extra-marital and marital offences into different offences because the law will be without effect in cases of extra-marital offence and encourages sexual immorality and spread of venereal diseases.

As regards the punishment for these offences, I would retain the punishment as it is as existing in the present acts.

18. I do not know the usual procedure in vogue of trials for offences of this kind but I have suggested the procedure in my answer to the question (8).

19. What safeguards I can suggest in a country like this. The only safeguard is the integrity and honesty of the Police Officers who must have the sense of National Welfare at heart at least in these cases.

20. Penal legislation fixing a higher Age of Consent between 16 and 18 years for marital cases is the only effective and successful method than fixing the minimum age of marriage. For matters like these public opinion is always divided and people in general have no independent opinion of anything nor have the courage of their convictions especially where social questions are touched.

21. I strongly and whole-heartedly rely on the strengthening and strict enforcement of the penal law if the Government really want to secure the object in view.

- Education and social propaganda is a failure and useless waste of time unless it is backed up by legislation.

### **Written Statement of Mr. C. RAJAGOPALACHARI, B.A., B.L., Advocate and President of the Bar Association, Bezwada.**

#### **1. No dissatisfaction.**

2. There should not be sexual intercourse with a wife who is under sixteen years of age. The reason is that child-bearing at an immature age undermines her health. The progeny is weak. She is unable to look after the children and her home.

3. Crimes of seduction or rape are extremely rare, so far as I am aware, in the coastal districts of the Andhra Province. In places where there is any violation of the old or amended law, I suggest that women of position, status and education may be appointed to work honorarily in the C. I. D. to bring the culprits to book; also to form Age of Consent Committees in important centres to check and detect violation of the law.

4. None thinks of the amendment of 1925:—On account of social and economic reasons, girls are generally married at the age of 12 or more. The want of proper bridegrooms is also one of the reasons for the late marriage of the girls. Consummation takes place a few months after puberty even though the girl is under 13. Nobody is conscious that there is an Act which makes such consummation an offence. Those who know it to be an offence, do it because they know it cannot be detected. There is collusion between the parties. The effective method is to adopt measures as stated in para. 3 above.

5. Girls attain puberty at about 12 among the Brahmmins and Vysya castes and at about 13 or 14 in other castes.

6. No cohabitation before puberty; but there is cohabitation soon after puberty even though the girl does not complete 18. No such case has come to Court.

7. The practice of early consummation is not due to any religious sanction but a desire to join the wife and the desire of parents to have a daughter-in-law in their homes.

8. The 'garbhadana' ceremony is performed at the nuptials and not at any time before consummation except that it is formally done among Brahmins and Vyasyas on the 5th day of marriage.

9. Attainment of puberty is certainly not an indication of physical maturity. 16 may be considered as a fair age for physical development. I should say that consummation should not take place under that age.

10. It is not possible for girls of even 20 years of age to give consent to cohabitation with a due realisation of consequence.

11. So far I am aware there is no cohabitation before puberty. Such may occur in places where militant classes exist. There are numerous cases of cohabitation before full development of the body resulting in frequent child-births when the girls became mere wrecks suffering all kinds of ailments so long as they live.

12. I consider that early consummation vitally affects the intellectual and physical progress of the people but I do not think it causes mortality. I am of opinion that deaths and births are divine ordainments. No person can die too early or late. Healthy persons die suddenly and persons with chronic illness drag on their existence without death visiting them.

13. There is no development of public opinion subsequent to 1925 in consequence of the Act. On account of the activity of the social reform movement and a knowledge of the tremendous material advancement made in western countries where the marital age is greater and a general desire of the people to rise to the level of the advancement of others has generated a feeling among the people that the Age of Consent should be greater than what it is now. The opinion is largely entertained by the English educated classes and their opinion is gradually reflecting on the masses.

14. The present generation of women are not in favour of early consummation.

15. Cases have not occurred in Courts in these parts and when they arise the age has to be proved, as it is done at present in civil matters, by production of birth certificate, horoscope, doctor's certificate and the Courts estimate of the age.

16. No; the difficulty will be minimised if the age is raised to 18.

17—18. This is only a matter of detail.

19. The question is answered in answer to question 8.

20. The cause of marital offences is the early marriage. If the minimum of the marriageable age is fixed, it will be helpful to the prevention of marital offences. The public opinion is that there should be the fixing of the minimum for the marriage and especially that of the girls.

21. All methods are necessary.

**Written Statement, dated the 26th August 1928, of Mr. NABHI RAMAMURTY PANTULU GARU, Retired District Munsiff, Jagannadha Vilas, Berhampore, Ganjam District.**

1. No.

2. For the preservation of the general health and the physical development of the girl concerned and of her progeny, on which the welfare of the country mostly depends the Age of Consent should be advanced.

8. They are frequent, though not brought to the notice of a Court of justice for fear of social degradation of the parties concerned and loss of prestige of their families. The Age of Consent should be raised.

4. No. Owing (A) to difficulty of detection of the exact time of consummation, (B) to want of education for the formation of healthy public opinion and (C) to fear of violating the law of marriages prohibiting marriage after puberty among Brahmins and Vyasyas, as popularly interpreted. I would enact a law authoritatively declaring marriage after puberty legal as laid down in the marriage manthras.

5. Between 12 and 13 generally among all classes.

6. Very rare under (1) as a rule under (2) under (3) if the girl attains puberty before 13. None of the cases go to court as public opinion is not sufficiently strong against such practises for want of properly conducted moral education.

7. I am aware of no religious injunction for a pernicious practice of this sort and much less of a penalty for its breach.

8. Yes. At the consummation of marriage after puberty as a rule, according to the moral stamina of the husband.

9. No. At the age of 14 except in the case of an abnormally weak girl.

10. At 14.

11. Yes. The girl is now about 18 years of age. She has a daughter aged 3 years old and a son aged a year, both of whom are apparently strong and healthy, but the mother has become very weak.

12. Yes, as a rule.

13. Yes, among well educated classes, though agricultural and labouring classes hail the accession of a daughter-in-law to the family at an early opportunity.

14. The women of the husband's family favour but not those of the girl's.

15. Yes. Village heads must be held responsible and punishable for omission to report cases of the breach of the law.

16. Yes.

17. No. The punishment may be retained as now enacted.

18. As between a husband and his wife, the trial may be in camera with the procedure laid down in Schedule 2 of the Criminal Procedure Code.

19. No.

20. Yes. Fixing the Age of Consent as now proposed will be more acceptable to the public.

21. Penal law is more efficacious than education and social propaganda which must necessarily be slow.

**Written Statement, dated the 13th August 1928, of Mr. M. S. H. THOMPSON, I.E.S., Principal, Government Training College, Rajahmundry.**

In reply to your letter No. 42 A. C. C., dated 24th ultimo, I have the honour to inform you that a special meeting of the Lecturers of this College was called by me to elicit opinion on the points raised in the questionnaire.

2. It was found that there was unanimity of opinion in favour of fixing by law the minimum age of consummation at fifteen in marital cases and at eighteen in extra-marital cases.

3. It was also felt that the raising of the minimum age of marriage may be left to the forces of education, social reform and public opinion instead of being taken up by legislation.

4. The answers elicited to some of the questions suggested in the questionnaire are appended. *Vide* Enclosure I.

*Answer.*

2. (2) An advance on the present law should be made to avoid the evils of early maternity in marital cases and to ensure rational consent in extra-marital cases.

4. Most people are ignorant of the law as well as of the amendment. More publicity work must be done to make the law more effective.

5. Between 11 and 16.

The age of puberty does not differ by castes or communities.

6. (1) No.

(2) Yes.

(3) No.

7. No.

8. Yes. It is celebrated at the time of consummation.

9. No. Fifteen years is the minimum age.

10. Eighteen years.

12. Yes.

18. Yes. But it is confined to the educated classes.

14. No.

17. Yes. The punishment may be according to the existing law.

20. Raising the Age of Consent for marital cases may not be so effective as fixing the minimum age of marriage. But the former will find greater support.

21. Both methods will have to be followed with cautions.

**Written Statement of Mr. M. SAYITRAMMA, Secretary, Women's Indian Association, Bezwada.**

1. There is no dissatisfaction with the law as contained in Sections 375 and 376, Indian Penal Code, even as amended by 376-A. Even if the Age of Consent as regards strangers is raised to 18 years, public opinion will not be against it, but will be entirely in its favour.

2. Age of Consent even in marital cases must be fixed at not less than the completion of 14 years. The physique will not be much developed at 13 years. The many cases of maternal mortality at ages 13 and 14 and infantile mortality prove the necessity of urgent legislation fixing the Age of Consent at below 15 years. The few girl-mothers that survive their deliveries are physical wrecks. So the Age of Consent should not be below 15 years and should be above 14 years.

3. There are not many cases of seduction or rape coming to public in these parts.

4. In most cases the amendment has postponed the consummation of marriage beyond 13 years and it has created public opinion in its favour but it cannot be said that the marriageable age has been advanced beyond 13 by the amendment. Some people with advanced views are marrying their daughters beyond 14 or 15 but it cannot be said that they have done so because of the said amendment. There ought to be vigilance committees for each 50 villages composed of men with advanced views of social reform to report on any violations of the law. Moreover, notifications of this law ought to be read by the Village Munsiff in every three months of the assembled villagers. The Village Munsiff ought to inform the vigilance committee the

ages, names of the girls and of her parents who have been consummated and married with their addresses. The vigilance committee will then have sufficient information to take action whenever necessary.

5. Girls generally attain puberty between 12 and 13 years of age and between 14 and 15 among the working classes.

6. The cases of consummation before puberty are very few in these parts and can be ignored.

(2) Generally the consummation of girls takes place from between 6 to 12 months after puberty.

(3) Cases of consummation before 13 years are very rare. No cases come to Court.

8. Garbhadasa ceremony is usually performed in these parts. It takes place from between 6 to 12 months after the girls attain puberty.

9. Attainment of puberty is not a sufficient indication of physical maturity. A girl ought not to be less than 15 years when she is consummated.

10. A girl in India who is above 14 or 15 years only can give an intelligent consent, not before.

12. I consider early consummation and early maternity responsible for maternal and infantile mortality, etc.

13. All cases are in favour of raising the Age of Consent in marital as well as extra-marital cases.

14. According to custom women are performing early consummation for their children but they are now thinking of raising the age as further up as possible till 14 or 15.

17. The marital and extra-marital offences ought to be separate. In marital offences the punishment ought not to exceed a year simple imprisonment or fine not exceeding Rs. 500. In extra-marital offences the punishment may be as it is in existence now.

18. There ought to be no difference in procedure between the two cases.

19. In answer to question 4 I have stated the means by which collusion could be avoided and to protect improper prosecution or extortion I would suggest the sanction of the Collector on the recommendation of the resolution of the vigilance committee for prosecution of the offender.

20. Legislation fixing the minimum age for marriage of girls at 14 years is much to be preferred to penal legislation raising the Age of Consent. Orthodox people will object to both but prefer raising the Age of Consent to fixing the age of marriage at 14 or 15. But people with even ordinarily advanced views prefer fixing the minimum age for the marriage of girls at 14. The Age of Consent in marital cases and the minimum age of marriage must be the same.

21. Penal law ought to be strengthened by legislation to secure the object in view amongst all Sections of people. However much education and social propaganda are necessary things by themselves may be resorted to for that purpose. It cannot achieve that amount of desirable success which legislation will do. The cases that avoid law will be very few and success is ensured only if there is penal legislation.

**Written Statement, dated the 15th August 1928, of Rao Sahib M. Y. APPA ROW PANTULU GARU, Retired Assistant Registrar of Co-operative Societies and Special First Class Magistrate, Berhampur.**

1. Yes; there is every dissatisfaction.

2. See answer to question (4).

3. Crimes of seduction are not frequent in our part of the country; only one or two cases a year come up at the most. But rape is a frequent crime



in our parts, though the pity of it is that few cases will be reported, due to the rigidity of the caste and local customs. According to these customs, a woman is taken to be polluted, at the very touch of a stranger, much more when he rapes her; and the fate of a polluted woman is that she is excommunicated and outcasted, and her husband asked to leave her off. Of course, the husband also will be liable to the same penalty if he were to entertain the woman again. Therefore as soon a case of rape occurs, the woman raped rather swallows up the offence, and keeps quiet, than make a report of it, for fear of the caste rules. Hence it is only very rarely that a rape case comes to Court.

In my opinion, the amendment of 1925, raising the Age of Consent to 14, has in no way succeeded the preventing or reducing cases of rape (outside marital state) or cases of seduction. The number of cases (whether the number be significant or insignificant) which existed prior to the amendment of 1925, do exist even now.

The detection of most of these cases lies in the vigilance of the local police. But with this we have nothing to do here. In the few cases that come up for trial the general defence is consent, and sometimes the girl is truly a consenting party, though in consenting she does not realise the consequences of her act. She is generally led away either by the accused's offer of apparel or jewellery. This is evidently due to uneducatedness, ignorance and lack of discretion. A girl of 14 can have no power of discretion especially when she is uneducated. Two remedies are open to cure this malady. Firstly, female education must be made compulsory in every town as well as village. Education will certainly accelerate the attainment of discretion. This, however, is a necessary but a slow process. Moreover, this kind of expansion of female education is too arduous and costly a task for the Government now to attempt. In this state of things the only effective and immediate remedy is to raise the Age of Consent to 16, and if possible to 18, for even amongst ignorant girls same amount of discretion is possible at that age, so as to make them realise the consequences of consenting.

4. To this my answer is in the negative. Act X of 1891, raised the Age of Consent from Ten to Twelve years for the following reasons:—"The limit at which the Age of Consent is now fixed (that is, ten years) favours the premature consummation by adult husbands of marriages with children who have not reached the age of puberty and is thus in the unanimous opinion of the medical authorities, productive of grievous suffering and permanent injury to child-wives and by physical deterioration in the community which they belong." I can most emphatically say that the position almost remains the same as before 1891 even after the amendment of 1925 raising the limit to 18. In spite of the raising of this limit, female children are still harassed by the horrors of premature cohabitation and immediate prostitution. The reason in my opinion is this:—All girls do not attain puberty at 18. There are, as far as I know, many cases where girls attained puberty, some at 14, some at 15, and some even at sixteen. These are no exceptional cases for they are not one or two, but many. Thus, if the Age of Consent were to be only 18, consummation before puberty is possible.

Moreover, even taking that some girls do attain puberty at the ages of 13 and 14, consummation is not at all advisable, except two or three years after the attainment of puberty. To support this, I can only cite my experience. I have known cases where, the consummation being done immediately after attainment of puberty, the issue thereof have been weak and sickly and the mother has grown prematurely old; and comparatively I have known cases where, the consummation being done some two or three years after attainment of puberty, the issue thereof have been strong and healthy, the mother keeping her youth unhampered for a long time. I can also say that mere attainment of puberty is not at all the sign for safe consummation; and after puberty considerable time must elapse, so that the full development of the system of the girl may be reached, so as to make her fit and ready for consummation. So, if female children were to be protected from premature co-

habitation and its consequent detriments to her as well as to her children. the best remedy thereto is penalising all consummation before sixteen; and this means that the Age of Consent (within the marital state) should be raised to sixteen. Raising it to fourteen only is of little use.

Besides, it is absolutely necessary to see that the true age of girls is always available, and for this the strict accuracy of the birth-entry registers is the essential requisite.

One more point is noteworthy. Marriage among most of the higher classes of the Hindus means only wedding, the consummation being a separate ceremony. Moreover, it is a well-known fact that child-marriages are highly prevalent among Hindus. If marriages were to be allowed below the Age of Consent, it is generally difficult to prevent consummation before the Age of Consent is attained. The very marriage creates a great deal of affinity between the parties married, and when the married girl happens to attain puberty below the Age of Consent, the very consciousness of having been married, tempts the parties married, towards consummation; and in such a state, it is beyond their possibility to mind any law or any penalty going against their intentions. As such, it will be all the more better if marriage itself even the very wedding is not allowed below the Age of Consent.

Therefore, I think that it will be more beneficial if the Age of Consent outside the marital state is raised to the extent suggested above, and if, as for the Age of Consent within the marital state, marriage itself, even wedding is not allowed below the limit. To put it short child-marriages should be penalised, and to this end the Bill of Mr. Sarda should be passed.

5. In my part of the country girls attain puberty between the ages of 12 and 16. Among the higher castes and richer classes, girls generally attain puberty between the ages of 12 and 14, but among the lower communities and classes they do so at 15 or 16, for the apparent reason that these lower classes are hardworking. The heat of India is mainly responsible for early attainment of puberty. Added to this, ease and lack of exercise among the girls, makes them attain puberty earlier still; while on the other hand ample exercise and hardwork postpones puberty by an year or two or more.

6. Cases of cohabitation before puberty are not frequent in my part of the country; it is only very rarely that I hear of any such cases; and even that happens only where the husband is an adult and is too eager for cohabitation, and the wife does not attain puberty for a long time.

(2) But cohabitation soon after puberty is very common in these parts among many castes, classes, especially in cases where the husband is an adult.

(8) There are some cases of cohabitation before the girl completes 18 years in these parts. But none of these cases come to Court and they go undetected. None of the cases come to Court for want of detection.

7. No. There is absolutely no religious injunction—it is only a social observance, imposed upon members of the society. The origin of this mischievous convention as to the necessity of early consummation is quite Historical. From the advent of Mahammad Ghazni in the 11th century to the transfer of the Crown from the East India Company in 1856, India has been a land of strife with only a few gaps of peaceful administration. This strife especially in those remote centuries was so immense and terrific, that there was security of neither life, nor property nor chastity. It was a severe problem in those days for a father to protect his daughters, and it was all the more severe and risky for him to keep puberty attained daughters under his roof, for, every moment they were in fear of being carried away, while no one touched an unmatured girl. As such, the only way open to a father was to make the marriage of a girl early and consummate her as soon as she attained puberty, and send her away to her husband's house so as to rid himself of the severe and painful burden of protecting her. This practice gradually became universal, and continuing along with the strife in the country which cause insecurity, it became an unavoidable custom, being deeply implanted in the society. Thus, this system of early marriage and early

consummation, is only a customary one arising out of Historical circumstances existing at one time. But those circumstances which necessitated the observance of this custom have disappeared though the custom still remains. According to the legal principle, "*Cessante Ratione Legis cessat ipsa lex*" (that is, the reason of a law ceasing the law itself must cease at once), now that the reason for the custom is no more, the custom itself must be given up.

Except this now-unsuiting customary observance, there is nothing whatever and no religious injunction, to which this practice of early consummation of marriage before or at puberty, wherever it exists, is to be attributed and if there is anything in the sastras or smritis in favour of this customary observance, it must be only an alteration made therein in those times, to suit the purpose determined upon. Even if it said that the so-called injunction is not due to an alteration, but is quite original, the *Mitakshara* recognizes that a sastric or religious precept can be changed by public opinion, when it says "practice not that which is legal (that is, binding) but is abhorred by the world, for it secures no spiritual bliss." The Privy Council voices forth this text only in its dictum in the *Pannad* case that "under the Hindu Law clear proof of usage will outweigh the written text of the Law". So, to found a doctrine on a particular religious or sastric text and to say that it applies always and even to changed times is a negation of the very shastras themselves which clearly provide for the possibility of the sacred texts being set at naught by the force of public opinion.

8. Yes. The "Garbhadan" ceremony is strictly and necessarily performed in our part of the country among the three regenerate classes; and it exactly coincides with the consummation of marriage. It is performed generally after the attainment of puberty and that in some cases immediately after puberty and the others within one year or two years after puberty. But in no case will the girl be kept unconsummated, for more than two years after attaining puberty, and this applies to a majority of classes in our parts.

9. No; the attainment of puberty is not a sufficient indication of physical maturity to justify consummation of marriage. A girl's physical development may be considered to be enough as to justify such consummation without injury to her own health and that of her progeny, only at the age of 16 years and two or three years after puberty. (For a full and comprehensive answer to this question see my answer to question 4.)

10. At the age of sixteen, the limit fixed by the ancient Hindus.

11. (*Vide* my answer to question 4, and also my answer to question 6). (1) A girl had cohabitation at 14 years of age after puberty but before full development and she is very unhealthy and her children too are very weak and one of her children died at 1 year of age; (2) Another girl who had cohabitation at 14 years of age is also unhealthy and her 3 children died.

12. Our answer to this is most emphatic, yes. We do consider that early consummation and early maternity are responsible for high maternal and infantile mortality and for many other results vitally affecting the intellectual and physical progress of the people. At a time when the womb is in an undeveloped and unfit state, if it is burdened with the task of child-bearing, the result will be weak and sickly children, most of whom die as infants only; and if by any star, some of such children happen to survive they will be physical and sometimes intellectual wrecks, and a burden on the healthy society. A learned author writes:—

"A nation can have no destiny before it, if it is to be a prey to the custom of (early marriages) and early consummation for man or woman; and gradual physical, moral and intellectual deterioration, if not actual racial obliteration, will be the only consequence of such conduct. It has been pointed by medical experts that one of the chief factors responsible for the emasculation of our youth and for the poisonous atmosphere in which we live and breathe are these institutions. Early marriages and early consummation, with the consequent early parenthood, according to medical opinion, saps our

vitality, destroys our stamina, renders us unable to resist consumption, cholera, and other epidemics and thereby leads to a high percentage of mortality."

Hence all this goes to show that not only the Age of Consent should be raised to prevent early consummation, but that the marriageable age also should be raised equally so as to prevent early marriages.

18. In our part of the country, there is further, development of public opinion in favour of such extension even after the amendment of 1925. It is fairly general and specially so among the women.

But more than this, public opinion in our parts is in favour of the prevention of child-marriages by legislation or otherwise; and day by day this public opinion is more and more developing being in itself general and not confined to certain classes only.

14. Absolutely no; women on the other hand do hate early consummation of marriage for their children. Only the rigour of social opinion, and that too only the opinion of the orthodox section of the society, goads them to that. But now-a-days, most of the enlightened of the society do favour late consummation.

15. Yes; the true age of the girls is not sometimes available. To do away with this difficulty the strict accuracy of the birth-entry registers is the essential requisite, as already mentioned in the answer to question (4).

16. I do not think so. The difficulty of determining true age, should be averted by resorting among other ways, to the strict accuracy of birth-entry registers being ensured.

17. Marital offences cannot be said to be heinous as extra-marital offences. Hence they are always to be separate and the punishment for the former is to be higher.

18 and 19. Are beyond the pale of my knowledge.

20. We consider that legislation fixing the minimum age of marriage is likely to be more effective than penal legislation fixing a higher Age of Consent for marital cases, and this for the following reasons:—

Fixing a higher Age of Consent for marital cases means only postponement of consummation of marriage for some time—Widowhood which has been a horrible peril to the Hindu Society now, is being determined not by the date of consummation but by the date of marriage. If the husband were to die before the limit for consummation but after the marriage, the child-wife is sure to be declared a widow. And in this way, young widows are accumulating day by day, so much so that the following are the staggering figures relating to Hindu widows below the age of 15, according to the census of 1921:—

Widows of age up to 5 . . .	11,892	1	per 1,000 females.
Widows from 5 to 10 . . .	85,037	5	" " "
Widows from 10 to 15 . . .	232,147	17	" " "
Total . . .	329,076		

Compared with these figures, in England and Wales there is practically no widow below the age of 15, because there, marriage of a girl below 15, is a very rare thing.

Under these circumstances we are of the firmest belief that this huge number of widows can be most successfully averted, if marriage below 15 for girls is not allowed:—in other words, if the minimum age of marriage for girls is fixed at 15. The fixing of a higher Age of Consent for marital cases, will in no way stop this huge number of unfortunate widows, for their fate as already mentioned, is settled only by the date of the marriage.

Leaving aside the raising of the Age of Consent for marital cases, if the minimum age for marriage as well as for consummation is fixed at 15 (fifteen),

it will prove doubly beneficial, on the one hand stopping this huge number of widows, and on the other putting an end to all the evils of early consummation.—To ensure strict compliance with the 15 years' limit, marriages below 15 should not only be penalised, but also declared absolutely void.

Of these two alternatives, in our part of the country public opinion at present is in full consonance with the latter (that is, with legislation fixing the minimum age of marriage).

21. To secure the object in view we prefer to rely on the strengthening of the Penal Law only, and this for the following reasons :—

Social propaganda can bear fruit only in the long run, but the horrible sores caused by early marriage and early consummation do require immediate treatment and cure. Moreover, social propaganda can even in the long run win over only the enlightened; and it is impossible to win over the ignorant, by any amount of persuasion, though the very evil institutions, against which the propaganda is made, are sapping away their vitalities as well, and are doing to them also immeasurable harm. To make all of them enlightened by spreading education, is a thing which takes much time, and if these evil institutions are allowed to prevail till then, the result will be indescribable havoc meanwhile.

“ This festered joint cut off,  
the rest rests sound;

This let alone will all the rest confound ”.

(Shakespeare.)

**Written Statement, dated the 9th August 1928, of M. R. Ry. M. NARASIMHAM PANTULU GARU, B.A., B.L., Revenue Divisional Officer and Sub-Divisional Magistrate, Bhimavaram.**

1. There is dissatisfaction only among the educated people about the Age of Consent as it stands at present. The others do not know that there is such a law at all. I may say that even among the educated class, several people do not know the law.

2. I, am in favour of making an advance on the present law. Early consummation of marriages is leading to infant mortality, and physical degeneracy of the progeny, and to the physical wreckage of the mother.

3. Cases of rape in the ordinary sense are almost nil in these parts, but there may be a few cases of marital relations which fall within the scope of the definition under the last exception of the Section. Cases of seduction are met with somewhat more frequently.

The raising of the Age of Consent to 14 has had no effect on the offences of rape or seduction, because the law is practically unknown to the people by whom such offences are generally committed. The Law should be made known to the common people by publication in Vernacular in village sheets, and in Vernacular Newspapers, and by Vernacular posters affixed in every village and distributed broadcast.

4. The raising of the Age of Consent or for the matter of that, that there is any legal Age of Consent at all, is a matter generally unknown to the people who consummate marriages early. It is the unenlightened people who have not imbibed Western ideas that carry on consummation of marriage without caring for the age of the girl; and they do not generally know of the existence of the Law. It may therefore be said that the Law had little or no effect in any of the three directions indicated in this question.

I suggest wide promulgation of the law as indicated in my reply to question (8).

5. The usual age of attaining puberty in these parts is 13 or 14. In abnormal cases, it may be one year this side or that side, i.e., 12 or 15. I do not think that this differs in different castes or communities.

6. (i) Cohabitation before puberty is not at all common. It is very exceptional. It generally happens only where an old doltard marries a young girl.

(ii) It is generally common soon after puberty.

(iii) It is not common before the girl completes 13, but there may be a few cases of the kind.

Not a single case comes to Court, firstly, because the Law is unknown, and secondly because there is nobody to complain.

7. I am not versed in Sastras, but so far as my knowledge goes, there is no religious injunction ordaining consummation of marriage before or at puberty. It is only a social evil, having only ignorance or lust for its basis. It is only post-puberty marriage that is regarded as enjoined by Sastras.

8. In these parts "Garbhadan" is performed and the term is synonymous with consummation of marriage. It is sometimes performed soon after the attainment of puberty, but in some cases, after an interval of one or two years.

9. I do not consider that the attainment of puberty is a sufficient indication of maturity, and in my opinion consummation of marriage should not take place till the girl completes at least 15 years and enters on the 16th. Taking the generally prevailing age of maturity in these parts into account, I would put the interval between puberty and consummation at  $1\frac{1}{2}$  to 2 years.

10. I think a girl who has completed 15 years would be competent to give an intelligent consent for cohabitation.

11. In my private and personal experience, I know of cases in which cohabitation before full physical development has resulted in making the girl-mother a physical wreck, and her progeny puny and unhealthy creatures. These are cases in which consummation of marriage was effected in the 14th year.

12. Early consummation and early maternity are responsible for a portion of the maternal and infantile mortality in the country, and they are also responsible for physical and intellectual degeneracy.

13. There has been, of late, some development in public opinion in favour of extension of the Age of Consent. This is generally confined to the educated and intelligent classes.

14. Women now-a-days do not generally favour early consummation of marriage for their children. They are beginning to take into account the physical development also.

15. No cases at all of the kind have occurred to my knowledge.

16. I have no answer for this question, as cases of difficulties or errors of the kind have not occurred.

17. I would make a distinction between extra-marital and marital offences. For extra-marital offences, I would keep the punishment as it is now provided in the Indian Penal Code. For marital offences, I would have the maximum punishment fixed at 2 years imprisonment of either description or fine or both.

18. I think the procedure should be the same for both classes of offences, and both should be made cognizable, otherwise, there will be no one to set the Law in motion.

19. There will always be a false sympathy in marital cases, and a tendency to protect the offender. I am not able to suggest any safeguard.

20. In these parts, marriage, and consummation of marriage are two quite distinct ceremonies. Particularly among the Brahmins and Komatiz, the marriage is always ante-puberty marriage and consummation takes place long afterwards after the girl attains puberty. Fixing of minimum age for

marriage will not cure the evil and it is the fixing of a higher Age of Consent, that is more imperatively needed, and will be more effective.

Fixing of a higher Age of Consent will carry public opinion in its favour, as it does not involve interference with any religious usage, but only social custom. On the other hand, Mr. Sarada's Bill which interferes with the age of marriage evokes strong public opposition, as marriage is regarded as a religious sacrament which ought to take place among the higher castes before the girl attains puberty.

21. The progress of social reform and education has no doubt, been bringing about the desired object, but by very slow degrees. I would, therefore, advocate the strengthening of the penal Law in order to have more speedy results.

**Letter, dated the 11th August 1928, from Mr. M. VENKATA-CHALAM, B.A., B.L., Secretary, Bar Association, Rajahmundry.**

1. Yes.

2. Mr. Dewan Bahadur C. Venkatachalam says that the existing Age of Consent within the marital relationship may be retained as it is as in this country girls attain maturity by that age and the tendency is to put off consummation for some time after puberty; and that the matter may be left to the good sense of the community. If between 13 and 14 a girl misbehaves with a stranger, there will be a great likelihood of the thing being attributed to the husband of the girl and her parents; a great danger will await husbands if the Age of Consent is raised to 14. The Age of Consent need not be raised even outside the marital relationship as crimes of seduction and rape hardly exist.

3. These crimes are not prevalent in our part of the country. In view of this answer the subsequent part of this question does not arise.

4. There were rare instances of consummation before the age of 13; but such cases have now ceased altogether, not on account of the Act but on account of the examples set by the enlightened sections of the Society. Public opinion has been stimulated but not by the Act.

5. The usual age at which girls attain puberty is between 12 and 13 among the higher classes and it is between 13 and 14 among the labouring classes.

6. Formerly there used to be consummation before puberty in rare cases among Brahmins and Vysvas only where old men married young girls in second or third marriage. Now such cases are not at all heard of.

There are now no cases of consummation before 13. Generally consummation is made after an interval and not soon after puberty.

7. There is no such practice.

8. Consummation of marriage is known as garbhadhana. It is performed generally after some interval after puberty.

9. Generally menstruation becomes regular some months after attainment of puberty and when that is established consummation may take place without danger to the girl or her progenies.

10. At 13.

11. No.

12. No deterioration on this account.

13. Such opinion is confined to only for a very limited section of the community.

14. No.

15. Great difficulty. Compulsory and detailed registers of births with proper checks and safeguards can mitigate this difficulty.



16. No.
17. In case of marital offences the punishment must be considerably less.
18. In the case of marital offences the trial must be by a jury of that caste of the accused.
19. It is not possible.
20. The Age of Consent should not be raised beyond 18 years and the age of marriage may be fixed at 12.
21. Education and social propaganda and enabling legislation, but not penal legislation.

**Written Statement, dated the 10th August 1928, of the Maharajah of Pithapuram, C.B.E., Pithapuram.**

The minimum Age of Consent may be raised to 14. In the case of legally married couple consummation may be allowed even when the girl is thirteen; if the girl is properly developed and has attained puberty not less than six months before the date of consummation.

The punishment in the case of a stranger should be more severe than at present proposed.

In the case of the legally-wedded husband the punishment may be made more lenient. There should be no provision for imprisonment in this case; a fine should suffice.

**Written Statement of Rao Sahib THOTA PERAYYA NAIDU GARU, Retired Executive Engineer, Masulipatam.**

1. No.

2. (1) Apart from physiological grounds changes in Social and Economic conditions of the country justify an advance on the present law relating to Age of Consent.

(2) Increase from 12 to 13 years is not considered sufficient, as girls in this part of the country do not generally attain sufficient physical development at the age of 13 years.

3. Crimes of seduction or rape are very rare in this part of the country.

4. (1) There has been a steady rise in the age of marriage of girls generally, and also "Garbhadanam" in communities where pre-puberty marriage is enjoined by Hindu Sastras. In my opinion this is more an outcome of education and Social advancement than the result of the legislation regarding the Age of Consent enacted in 1925, which in the case of most people is an unknown factor.

(2) Public opinion of the thinking section of the Hindu community that originally stimulated, and was mainly instrumental in getting the law regarding "Age of Consent" amended, continues to grow in favour of further substantial advance on the present law.

(3) If by marriage is meant the mere ceremonial or ritualistic part of it, it has not. Such marriages continue to be performed mostly before 18 years in communities where pre-puberty marriage is a religious injunction. "Consummation" however is generally put off beyond 18 years, but it cannot be definitely stated that it is the effect of the piece of legislation referred to. In order to make the penal law effective the following steps can be taken.

(1) making the offence cognizable in which case it is likely to become an engine of oppression.

(2) Opening marriage and "Garbhadana" Registration Offices in every Municipal area, where every father or guardian who performs either the



marriage or Garbhadanam of his son, daughter or ward should report beforehand the ages of marrying couple, the time and place of the marriage or Garbhadanam as the case may be. In villages this work may be entrusted to the village officers. This kind of registration may to some extent secure the object in view.

5. Between 12 and 18 years girls of upper and middle classes to whatever caste or community they may belong, brought up amidst ease and luxury, mature earlier than those belonging to lower classes, who work hard and live in villages.

6. (1) Such cases are almost nil.

(2) Yes.

(8) The question of age does not generally arise. It is whether the girl has attained puberty, physically fit or not. None I know of.

7. As far as I am aware the practice of early consummation of marriage is not due to any religious injunction. Postponement of "Garbhadanam" beyond 14 years is certainly not opposed to Hindu Sastras. It is on the other hand in perfect accord with religion.

8. Yes.—It generally coincides with consummation.

Yes.—Generally after 6 months and before 8 years.

9. No. It simply marks the beginning—the beginning only—of physical development of parts, and the process of development should not be arrested by early consummation. This depends largely on the physique of the girl. Due to various causes some girls attain physical development sooner than others. I would fix 15 as the proper age.

10. 18 years.

12. Yes.

13. Yes. Confined chiefly to educated and thinking section.

14. Yes. Generally the ignorant who do not know the consequences, but women who possess intelligence and fore-thought do not favour it. Women's education is slowly but steadily progressing, and it is bound to convert the former gradually into rational ways of thinking. As educational system develops and a taste for higher education is cherished, the evil of withdrawing girls from Schools at a very early age for matrimony will be minimised.

21. I would like the strengthening of Penal Law to serve as a weapon for use if required, though in my opinion, the object in view can be largely secured by means of Educational and Social propaganda.

General.—I recommend that the age should be fixed at 15 in the case of husbands, and 18 in the case of strangers.

**Written Statement, dated the 26th August 1928, of M. R. Ry. Rao Saheb G. Y. RAMAMURTI, B.A., Parlakimedi (Ganjam District).**

1. Yes; to some extent. Educated persons think that the age limit mentioned in Section 375, fifthly "(fourteen) sixteen years of age" and exception "thirteen" should be eighteen and sixteen respectively.

2. (1) It should not be retained.

(2) On grounds of health both of the mother and her progeny as well as the welfare of the nation.

3. Establishment of asylums for illegitimate children.

4. (1—2) Yes.

(3) Yes, in a few cases.

5. Generally 18; earlier in the case of girls of the higher classes; later in the case of girls of the working or labouring classes.

6. (1) Very rare (in the case of old widowers marrying young girls for the 2nd or 3rd time).

(2) Common.

(3) Very common if the girl attains puberty before 18 years.

No.

7. Among the orthodox Brahmins the custom is said to have the sanction of the Dharma Sastra "

8. Yes. If consummation means actual intercourse, it always coincides with garbhadhan which is performed generally soon after puberty. On the 4th day of the marriage, as it is now performed before puberty, 'Samavesana' is done as a ceremony. According to the Sastras, it is contended that Samavesana is consummation.

9. No. Either 18 years or 5 years after puberty whichever is later. This is the opinion of some of the educated persons; but other lower the limit to 16 years or 3 years after puberty.

10. 18 years. A girl has no right to dispose of her property before she attains the age of discretion, which is 18 years. How could she be allowed to dispose of her person (which is of more importance than her property) before attaining the age of discretion.

11. My experience is not professional; but I know of a few cases of injury to girls on account of sexual intercourse before the body is fully developed.

12. Yes.

13. Yes; but it is confined to the educated classes.

14. Yes; but only some women of the educated classes.

15. At present, the father or guardian of the new born child has to submit a report of birth within 48 hours after birth and the name of the father or guardian only is noted as no name is given to the child till the namakarana ceremony which is generally performed on the 11th day or later. The father or guardian should, therefore, be required to report the name of the child, which should be entered in the British Register.

16. Yes, to some extent.

17. Yes.

(A) Extra-marital—

(a) The girl being under 14—imprisonment for 10 years and fine.

(b) The girl being under 18 years for 2 years and fine.

(B) Marital—

(a) The girl being under 14—imprisonment for 5 years and fine.

(b) The girl being under 16—imprisonment for 2 years and fine.

18. (A) (a) & (B) (a) By a first class Magistrate.

(A) (b) & (B) (b) By a second class Magistrate.

20. No; the latter.

21. Both.

**Written Statement, dated the 28th August 1928, of Mr. J. R. KALYANARAMIER, B.A., L.T., Lecturer, Noble College Masulipatam.**

1. Educated and sensible people are for raising the Age of Consent, but the common people are indifferent and follow the old custom.

2. An advance on the present law is justified, because there will be improvement in health and more scope for female education.

3. We hear very occasionally of seduction and rape in these parts.

4. I do not know how far the amendment of 1925 is responsible, but people are slowly postponing consummation though they are rather in a hurry about marriage.

5. Between 12 and 14. Among Brahmmins and Vysyas, it is early, but among the labouring classes it is generally after 13. As most Christian girls go to school and their minds are occupied with matters other than marital, puberty occurs at about 14 among them.

6. Generally soon after puberty. I do not think cases of cohabitation before puberty or before completion of 13 years come to Court.

7. The popular opinion is that the Hindu religion enjoins early consummation, soon after puberty.

9. People wrongly think menstruation means physical maturity. I think sixteen will be a safe age for consummation, provided the general health is good.

10. At 16 or 17.

11. I have known a case near my house, where a girl between 13 and 14 gave birth to a still born and died soon after. Lately another girl about 15 had to be delivered with the forceps. The child died, but the mother has recovered.

12. Yes.

13. No.

14. Yes, except among Indian Christians. I am not sure about Mahamedans.

18. Marital offences should be dealt with more leniently.

19. Nil.

20. Raising the minimum age of marriage will be effective.

21. Social reform by means of education, etc., is too slow to meet the need. The Penal Law must therefore be strengthened.

### **Written Statement of M. R. Ry. Rao Sahib K. CHITTI ABBAYI NAIDU GARU PULLA, Ellore Taluq, West Godavari District.**

1. There is general dissatisfaction with the state of the law as to the Age of Consent as contained in Sections 375 and 376, Indian Penal Code.

2. The Age of Consent according to the opinion of the undersigned is to be raised to 18 years; girls generally cannot be expected to exercise their discretion in the matter and weigh the consequences of their consent before they attain that age.

3. Offences of rape and seduction are not frequent; but of rare occurrence. The undersigned is not in a position to give a satisfactory answer to the latter part of question No. 3, without reference to the concerning statistics of cases both before and after the amendment of 1925.

4. The amendment referred to has been to some extent protective—

(i) in postponing consummation of marriage;

(ii) in stimulating public opinion in that direction;

(iii) by putting off marriage beyond 13 years.

5. Girls usually attain puberty in our part of the country between 12 and 14. There is no difference in this respect between different classes of societies, etc.

6. (1) Cohabitation before puberty is of rare occurrence.

(2—3) Cohabitation are very common. Such cases do not generally come to Court.

7. There is no religious injunction with regard to the practice referred to.

8. Garbhadhanam ceremony is usually performed simultaneously with consummation. It is generally performed after the attainment of puberty and in some cases immediately after.

9. Attainment of puberty is not a sufficient indication of physical maturity to justify consummation. At least 16 years is the minimum age required to justify consummation.

10. Girls in India may be competent to give intelligent consent at the age of 18.

11. Cohabitation before puberty and after puberty, but before full physical development results in injury to the health of the mother and also of the progeny.

12. Early consummation of early maternity are to a great extent responsible for a high maternal and infantile mortality and also for other various results affecting the intellectual and physical progress of the people.

13. Public opinion is in favour of further extension of the Age of Consent in marital and extra-marital cases, since the amendment of law in 1925.

14. Women do not favour early consummation of marriage for the children.

15. There is no doubt great difficulty in determining the age of the girls with reference to offences under Sections 375 and 376, Indian Penal Code, as medical experts can only testify to the approximate but not the exact age of the girl concerned. The undersigned would suggest that this difficulty can to a great be removed by strict adherence to the rules framed and to be framed with reference to the maintenance of birth registers all over the country.

16. The difficulty or margin of error would be minimised.

17. Marital offences stand upon a different footing from extra-marital offences. The former class of offences offend more against moral justices than the latter and require to be put down with a serious penalty.

18. Difference in procedure in trials is not so much necessary.

19. No further safeguards seem to be necessary.

20. Penal legislation fixing a higher Age of Consent is likely to be more effective than legislation fixing a minimum age. This view would be in consonance with public opinion in our part of the country.

21. The penal law should no doubt be strengthened to secure the object in view in addition to the progress of social reform by means of education and social propaganda.

**Written Statement, dated the 9th August 1928, of Sriman M. G. PATNAIK MAHASAYO, B.A., B.L., Yakil, Berhampur (Ganjam).**

1. The provisions of Sections 375 and 376, Indian Penal Code, on the question do not meet the needs of the case.

2. An advance on the present law is necessary. Sexual intercourse with a woman below the age of 16 should be absolutely prohibited and penalised irrespective of the fact that the woman is the wife of the person who had such intercourse. As I am of opinion that physical maturity cannot be attained before the 16th year.

3. No. It is very difficult if not almost impossible to detect such cases. Strict registration of the ages of girls and strict watch over their life between the ages of 12 and 16 by village Panchayat may be effective to some extent in reducing cases of rape of the kind though complete prevention cannot be expected unless public opinion grows much stronger than what it is at present. Panchayats should be authorized to institute criminal

proceedings against offenders. Prosecution should be conducted by or at the expenses of the State.

4. No. I would give the same answer as to question No. 3.

5. Between the ages of 12 and 13. Yes. Girls of the labouring classes and who have to do outdoor work and are not brought up in comfort attain puberty later than those who do not work for their bread and do not leave their houses for such work.

6. (1) No.

(2) Often though not very common.

(3) Often.

No.

7. No. Early consummation of marriage is frequently the result of the fond desires of the old men and women in the family who wish to see grandchildren and great-grandchildren before they die. No doubt every menstruation is considered an occasion for begetting children and menstruation is considered sinful and tantamount to feticide, but no penalty is prescribed for such neglect. So the injunction is merely advisory.

8. No.

9. No. At the 16th year.

10. 16th year the age of discretion adopted in the Hindu Law.

11. No.

12. Yes.

13. No.

14. Yes, old women.

15. Yes. The measures suggested in No. 3.

16. The age should be raised to 16th.

17. Yes. Marital offences should be punished only with fine extending to Rs. 500.

18—19. No.

20. Yes. Public opinion is against fixing a higher Age of Consent.

21. Strengthening of the penal law will be of no use unless there is progress of social reforms. Penal law should be strong enough to rouse public interest and should not be relied upon to secure what is mainly a social reform.

**Written Statement, dated the 9th August 1928, of Mr. D. V. S. PRAKASAROW GARU, B.A., Secretary, East Godavari District Association, Cocanada.**

1. Yes. Among the advanced section of the community which takes a broad view of the social condition of the country as a whole.

2. The law is found ineffective in its operation and very often to be harmful to the good of the community as it does not protect all girls needing protection.

3. Not frequently.

4. Many could not have heard or known of the amendment of 1925 and I have not heard of any prosecutions by the police for the infringement of the law.

5. In the majority of cases not below 13. Attainment of puberty does not depend on differences of caste, communities or classes of society. It would be well to delete the second portion of this question as it looks quite inappropriate.

6. (1) Very rarely.

(2) Yes, in poor families which cannot engage servants for household duties.

(3) Yes. As the law permits it. These cases do not come to Court as the moral and social consciousness of the people who are mostly illiterate has not been developed to the desired extent.

7. Religious injunction may be found in diverse Sastras, but when custom is the law of the land and the so-called priests of religion have no hold on their disciples, enforcement of penalty for the alleged breach of religious injunction is impossible.

8. Yes. It is generally performed after the attainment of puberty except when the husband is too young or ailing or is studying in foreign countries. Long delay then ensues.

9. No. Consummation should not be allowed by law till the girl attains her 14th if not the 16th year of age.

10. 16.

11. Yes. Cases within my knowledge are too many and in several cases they have proved fatal.

12. Yes. Quite so. On most cases people have not enough food to eat to keep up their vitality or to grow stronger. \*

13. Yes. Among the Brahmamajists and the social reformers.

14. Some may do, but their average ignorance of the consequences can be no guide in determining questions of vast importance like the one under investigation.

15. Cannot say.

16. Yes.

17. Raise the Age of Consent to 16 and the necessity of differentiating offences vanishes.

21. A direct measure calculated to prevent child marriages will be more appreciated than the haphazard attempts to rectify the existing evil by revising the Age of Consent from time to time.

### Written Statement, dated the 12th August 1928, of the Raja of Dharakota.

Before taking up your questionnaire and trying to answer them *in siriatum*, I wish to point out that in no class of the Hindu community sexual intercourse takes place on the day of the marriage, whatever be the stage at which a girl is married, that is, whether the girl is married before puberty or whether she is married after puberty, as this marriage is only a religious function performed according to the Sastras and not meant for such intercourse.

Among such classes of the Hindu that perform this religious marriage before the puberty of a girl, the couple in spite of this marriage, is not to have sexual intercourse till sometime after the puberty takes place. Even among such classes of the Hindu community that perform this religious marriage after puberty of a girl, the couple is not allowed to have intercourse till the fourth day of the marriage, that is, till the day the nuptial ceremony takes place. Thus it can be seen that early marriage is quite different from early sexual intercourse and one should not be confounded with the other. Both the classes of the Hindu community perform their marriage allowed to each by the Dharma Sastras and no legislation is desirable nor necessary to compel the class which have early marriage, to put a stop to this marriage as it will wound the religious feeling of the said community.

Now taking up your questionnaire I wish to deal first with question No. 7, and in this connection I wish to narrate briefly the religious injunction contained in the Vedas and other Dharma Sastras as to why they should be allowed by the Aryans and what these Sastras say regarding

(1) Man is born by the combination of Rajo and Birjya that is from Ovum which is by itself impure (sinful) in nature. Hence the Hindu Dharma Sastras have prescribed certain strict laws which lay down certain duties for a man to purify himself to get rid of the sin. Among these acts of purification marriage is the last.

(2) The Sastras prescribe such acts of purification for an Aryan beginning from the womb in which he is to form the embryo that is the first stage of his life. Such acts of purification continue one after another till the day of his marriage, so that he becomes fit to perform the Vedic rites.

(3) The Vedas are the ultimate authority of the Aryans and any act contradictory to them are to be considered "Adharma" that is unspiritual. Any act done by man supported by Vedas is considered spiritual that is true "Dharma".

(4) These Vedas are code which prescribe such acts to be performed in one's life-time which ultimately elevate his soul both in his life in this world and in the next world.

(5) These Vedas are believed by the Aryans as laws come from the creator and should be taken as self-evident truths and should not be subjected to argument.

(6) All Smrities and Puranas which corroborate with the Vedas are likewise to be taken as self-evident truths.

(7) In these Vedas, Smrities and Puranas it is prescribed that an Aryan should confine his studies only to these Sastras and other Sastras akin to these.

(8) He is a true Aryan who follows the Vedic principles.

(9) The higher class of Aryans are entitled to enter the Grihasthasram that is to become husband after finishing his religious studies under a Guru when he has to take as his wife a girl who possesses the good qualities according to the Sastras. Among the good qualities the age of the girl is of the first importance, of course Sabarna being one of the other good qualities. A girl of eight years of age is known as Gouri Konia and it is with such a girl marriage should be performed and this is considered to be the best according to the Sastras. The higher the age of the girl the less the sanctity of the marriage. The following are the selected quotations from the Sastras:—

यवमनुवाक्यम् ।

“यष्टवर्षा भवेत्गौरी ।

नववर्षातु रोहिणी ॥

दशवर्षा भवेत्कन्या ।

अतउर्ध्वं राजसूया ॥”

कन्यायाश्चष्टवर्षायाः विवाहः प्रथमोऽनुष्ठेयः ।

इतिमनोः प्रसाधवाक्यम् ।

Now taking up the other questions my answers are the following:—

1. It is such persons as deal with law are aware of the existence of law regarding the Age of Consent contained in the Sections 75 and 76 of the Indian Penal Code. As to the other people, they are ignorant of the existence of law in the matter. So if there is any dissatisfaction it must be only among some of those of former class of which I have no knowledge.

2. As to this question my opinion is that the sections may not be amended as fixing any age above fourteen and penalizing intercourse before

this age will be more hardship on both the sexes taking into consideration the climatic conditions of India. Moreover such penalisation may be taken advantage of by the pleaders and the Police and the people may be harassed thereby. If any amendment is to be proposed the exception may be omitted from the sections as no sexual intercourse with a girl below fourteen years is desirable even by the husband.

3. Crimes of seduction or rape is not frequent in our parts as any act pertaining to such a crime is condemned by the society.

4. In our parts I do not know any case of a husband having sexual intercourse with a wife before she is thirteen years of age and hence the amendment of the sections of law in 1925 is of no importance for the people of these parts.

5. The usual age at which a girl attains puberty in these parts is thirteen years which is a little less or more according as the family to which the girl belongs, is well-to-do or poor. The caste system has nothing to do with the puberty of a girl.

6. There are no cases of cohabitation with girls before puberty, but there are cases of cohabitation with a girl just after puberty when the husband is advanced in age.

7. Already dealt with in the beginning.

8. Ceremony performed to purify the embryo is known as Garbhadhan in these parts, as such it cannot be anterior to the consummation of marriage. It is performed after the attainment of pregnancy.

9. Personally I think that the attainment of puberty is not sufficient indication of physical maturity of the girl to justify consummation of marriage, if such puberty takes place when the girl is below fourteen. After this age however, puberty may be taken as justifiable for consummation of marriage.

10. This question can be better answered by the female sex.

11. As far as my information goes, I have not known any cases of cohabitation before puberty in this part of the country, but I have heard of cases from the newspapers in some happening parts of India. Our Dharma Sastras prohibit such cohabitation.

12. With so-called advancement civilization the style of living among the people have been changed. This I attribute to the infantile mortality in this country. Before the 20th century though there was early marriage there was not so many cases of death of infants. We read in Ramayana there was not even single case of infantile death though there was early marriage then.

13. Illiterate people as I have already said has no knowledge of the existence of such law. The public opinion among the educated class is that the exceptions are to be omitted from the sections.

14. Such of the women in whose community there is early marriage are in favour of such marriage, but none are in favour of early sexual intercourse.

15. It is difficult and not desirable to take any steps to find out the correct age of a girl except by the horoscope and birth register as other methods will be resented by the public.

16. If the Age of Consent is raised the difficulty in finding out the correct age of a girl will all the more increase.

17—18. The present law in the matter is sufficient.

19. The female sex should also be punished and law should be framed accordingly if she is proved to have taken the initiative for sexual intercourse before she attains the age of 14.

20—21. Marriage is a religious function and no higher age should be fixed for the same nor should it be penalized if performed at an early age.



**Written Statement of M. R. Ry. P. G. VENKATAPATHIRAJU  
GARU, B.A., M.L.C., Ylagapattam.**

With regard to the general question whether the State should interfere with pernicious practices, usages or customs the Indian Government has rightly interfered with such in the past and it is the duty of the State to do so now. Really such usages or practices are no part of Religion. For any reform there will be some opposition, but to yield to such unreasonable opposition will retard human progress.

Now coming to the points regarding the raising of the Age of Consent and penalising child marriages, it is my opinion that it is a very necessary step and the State should lose no more time for taking speedy steps for effecting necessary Legislation. The opposition of some people who pose as orthodox is more based on mere sentiment and their innate disinclination to vary the existing usage practice than on Religion or Sastras. These very people have deliberately set at nought hundred and one injunctions of Religion and Sastras with impunity for merepaltry, temporary advantage or to suit their convenience. To say that they are following the tenets of the Religion or Sastras in their daily conduct of life is sheer hypocrisy. It is my strong conviction that legislation is urgently necessary to raise the Age of Consent to sixteen years within the marital state, and to eighteen years in other cases and to penalise child marriages and also to provide for divorce in cases of cruel treatment, desertion or infidelity.

*Answer to Questionnaire.*

1. There is dissatisfaction at the ages as they are fixed too low and at the lack of necessary alertness on the part of the authorities for bringing cases of infringement of law to Courts.
2. An advance on the present law is necessary to prevent the deplorable degeneration of the race and the high rate of mortality of infants and child-mothers.
3. Crimes of seduction or rape are numerous, but the amendment of law made in 1925 did not succeed even appreciably in reducing the cases as the rise in age is quite inadequate and as there is no proper agency for bringing the offenders to book. I propose to rising of the age to eighteen years and to create a special tribunal for each district to deal with these offences.
4. It has not secured protection by producing any of these effects. I propose that the age should be raised to 16 in marital cases and a special tribunal proposed in answer to the previous question should be created.
5. Girls attain puberty generally at the age of 14. It does not much differ in different castes, communities, classes of society but some difference is found in different families.
6. Cohabitation is common generally soon after puberty and none of these cases have come to Court to my knowledge.
7. I do not attribute it to religious injunction but to mere usage or mere practice which has begun to be considered as religious injunction in a few communities.
8. Yes, it is usually performed as early as possible after puberty except in some cases where it is performed before puberty and it is then known as "Nishekam".
9. Certainly not and generally some two years after puberty may be considered enough, but it greatly varies in special cases.
10. At sixteen years of age a girl may be taken to give an intelligent consent.
11. Yes, I have come across many such cases. The age is generally 13 and 14. Baneful effects are permanent ruining of the health of the girl, and of the progeny in cases where they survived.

12. Early consummation and early maternity are chiefly responsible for high maternal and infantile mortality and general deterioration of the people.

13. There is a very strong public opinion, in favour of extension of the Age of Consent since 1928 and it is general.

14. There are some who favour, but they are guided by prevailing custom but not by reason. They are not particular.

15. At the present time registration of births is effectively carried out and certificate from such registers may be insisted upon to remove these difficulties in most cases.

16. It will not be materially reduced—unless the Age of Consent is raised to 16 years.

17. Yes. In the case of marital cases fine and simple imprisonment and in non-marital cases rigorous imprisonment and transportation.

18. There should be a difference in the procedure

19. I do not think it necessary.

20. Fixing minimum age of marriage will certainly be more effective since marriage in all cases is a public event whereas consummation is not so. The fixing of a minimum Age of Consent is generally accepted by all, but the enlightened public opinion is to prevent child marriage altogether.

21. Grave evils require drastic remedies and I prefer the strengthening of penal law to undo the evil that has crept into the Hindu society. It cannot be left to be cured by education or social propaganda.

**Written Statement, dated the 24th August 1928, of Mr. S. B. RUTH,  
Editor, "Daily Asha," Berhampur.**

1. There is neither satisfaction nor dissatisfaction with the state of law as to the Age of Consent as contained in Sections 375 and 376 of the Indian Penal Code. People in this part of the country in ordinary practice are scarcely affected by the said provisions.

2. Taking human nature as it is an advance of the present law must be considered desirable though in this part of the country actual circumstances seldom arise to justify in hasty or immediate change.

3. Crimes of seduction or rape are very rarely if at all found in this part of the country. The law of 1925 has therefore remained practically inoperative.

4. In our society in this part of the country consummation of marriage generally takes place after thirteen. Among certain high castes marriage takes place before thirteen, but the couple never meet till after another ceremony which takes place sometime after the bride attains puberty.

5. Our girls generally attain puberty at or after fourteen. In cultured and well-to-do classes of people puberty sometimes comes earlier. But early marriage not being the custom even among many cultured castes early attainment of puberty has little to do with consummation.

6. Cohabitation is very rare in our parts of the country before puberty or before the girl completes thirteen years. In cases of remarriage of aged widowers among some higher castes consummation soon after marriage is sometimes observed. But no cases have been known to have come to Court.

7. No religious or Sastric injunctions have been known to exist recommending consummation of marriage before or at puberty.

8. Among Brahmmins and a small number of high caste people observing early marriage "Garbhadhan" ceremony is performed and it is performed generally not less than six months after the bride attains puberty. In most cases, however, the ceremony takes place a year or two after the girl attains puberty.

9. Attainment of puberty is not a sufficient indication of physical maturity to justify consummation of marriage unless such puberty comes after the sixteenth year.

10. An ordinary girl can give an intelligent consent to cohabitation with due realization of consequences after, not before, her sixteenth year.

11. There is a brief among our people that if a girl becomes pregnant before her 16th year either the child or the mother must die and in many cases it is actually experienced.

12. Early consummation and early maternity are responsible for maternal and infantile mortality. Early child-bearing shortens the life of the mother and makes weaklings of children. This is ordinary experience.

13. Seldom have we heard of the statutory provisions about the Age of Consent talked among people of these parts.

14. Doting grandmothers sometimes desire early consummation of marriage for their grandchildren, in well-to-do families but, it is never the custom. The custom, however, runs in the contrary direction.

17. Under present circumstances obtaining in the society marital and extra-marital offences should be treated separately from each other. Marital offences should, however, be treated with delicacy and tenderness they deserve whereas extra-marital offences should be treated like ordinary criminal offences.

17 & 18. For the trial of marital offences village or ward-boards may be constituted with residuary powers of control and supervision exercised by the Court.

20. Legislation fixing the minimum age of marriage would be a much better remedy and much more in keeping with the public opinion in the country.

21. Under the present system of Government to strengthen the penal law for these purposes may not be countenanced by many that know. Education and social propaganda are, however, better means. But the Government ought to countenance, encourage and even finance them.

### **Written Statement, dated the 13th August 1928, of Mr. D. YEN-KATESWARA RAO, Secretary, The Bar Association, Guntur.**

1. People of this part of the country (Guntur District) are not fully educated. Especially in matters relating to Society, I may say that they are more or less indifferent to any reform. Among the higher castes, I mean the three regenerate castes, the majority are I think of the orthodox view that they must stick to the old customs. The lower castes are ignorant. I don't think there is any dissatisfaction with the law as to the Age of Consent as contained in Sections 375 and 376 of the Indian Penal Code. I may also add that this may not be taken to mean that there is anything like positive satisfaction in their minds. So far as the English educated section is concerned, though there may not be much dissatisfaction, they favour reform.

2. So far as my experience goes, girls in our part, attain maturity at the age of 12. There are exceptional cases in which girls of the age of 11 have attained maturity, and the extreme cases in which girls do not attain maturity till 16 or 17. But such exceptional cases may be left out of consideration. Taking the average age of maturity at 12, I think, the law relating to the Age of Consent requires a further advance. In this part of the country, the woman and especially the girl, generally speaking, is lacking in knowledge relating to affairs outside the household, at least until she comes to a reasonable age, in any case beyond 16 years. There are several cases of seduction due to temptations offered and evil advice given by notorious characters male and female. It is only some time later, that she is able to form an intelligent opinion. But then repentance

comes too late. On account of the stupidity into which she is led, her life is doomed for ever.

Apart from this, the girl is not able to judge for herself whether she has attained sufficient physical development. If it is in a marital state, the parents themselves are, more often, responsible for the consummation of the marriage in an undeveloped state of the body. More often in cases in which there is an early consummation, before her system is fully developed, the girl gets very weak both in body and in mind. All this, I think, may be avoided by legislation in relation to the Age of Consent, in marital and extra-marital cases also. It therefore goes without saying that I am not in favour of retaining the Age of Consent as it is.

3. Crimes of rape and seduction are not so frequent in this district. By this I mean there are not many cases brought to Court for Justice. But I am of opinion there are cases, which are not brought to the notice of Courts, for various reasons. Cases of seduction are very often not brought out, because the persons in custody (husbands or parents) are unwilling to have the dirty linen washed in Courts or for other reasons. I may here add that cases coming within the purview of Section 376-A of the Indian Penal Code go very often undetected.\* There are many cases in which the parties are ignorant of the law relating to the Age of Consent. I don't think that the amendment of 1925 has not in any way prevented or reduced the crime. There are various and insurmountable difficulties in the way of the effective administration of this branch of the law. However many safeguards may be introduced, I think, it is difficult, nay impossible to root it out, so long as the minds of the people are not changed. Education of the masses and creating a strong public opinion in that direction alone can make the law effective. Otherwise there is ample scope for offenders against this law to escape.

4. Even in this case, I think the amending Act has not altered the position in any way, by any of the three courses suggested in this question. In fact, 99 per cent. of the masses are even unaware of the legislation. The legislation in this connection should be widely published and tom-tomed in every village. The object of the Act and the means by which it is tried to secure must be made known to them. This I would suggest as it is a matter which affects the ordinary life of almost every household. Then a safeguard may be provided in the Act itself against frivolous and vexatious prosecutions. I may also suggest that the complaint should be received only from a near relation of the girl.

5. As has already been pointed out, the ordinary or average age of maturity is 12. No doubt it differs in different classes of Society. Mostly in well-to-do families the girls attain maturity at 12. In lower classes, for example peasants and labourers, the age advances.

6. The first of these are common in this District. There seems to be a notion among the people that if the husband cohabits with the wife before puberty, the bad effects of her maturity at an inauspicious time is neutralised. In pursuance of this notion, some people do so. There are stray cases here and there of consummation soon after puberty, but it is not general. So far as the consummation before the girl completes 13 years, is concerned, there are some cases, due to (i) the ignorance of the law and (ii) the desire to see the couple join as early as possible. But none of these cases come to Court.

7. I do not attribute it to any religious injunction.

8. The 'Garbhadhanam' ceremony is usually performed as the last ceremony in the course of the marriage and is considered to be the part of the marriage itself. It is always anterior to consummation, and not after puberty. This is purely a formal ceremony where the mantrams are recited and nothing more. In common parlance the term 'Garbhadhanam' is used synonymous with consummation.

9. I do not think that puberty is sufficient indication of a girl's physical maturity, so as to justify the consummation of marriage. The average age

of puberty being 12, I think, she attains full physical development in the course of 2 years thereafter. I would therefore fix it at 14.

10. Between 16 and 18.

11. In answer to this question I am not able to give any particulars. But I distinctly remember cases where consummation immediately after puberty, i.e., in the 12th year has retarded the growth and development of the girl's system. She is very weak and often subject to hysteric fits. She gives birth to children, who die either immediately or sometime later. Even the children alive are very weak.

12. I think that early consummation and early maternity is responsible for high maternal and infantile mortality. I am also of opinion that it affects the physical progress of the people.

13. As has been mentioned above, the Amending Act of 1925 is little known to people. There are many members of the legal profession itself who are unaware of it. So I cannot say that there has been any development of public opinion since the Amending Act of 1925.

14. Women in this district are mostly ignorant. They seem to be under the impression that they should conform to the time-honoured notion of effecting consummation as soon as possible after maturity.

15. Now I don't think any such difficulties can arise. They have not actually arisen within my experience or knowledge. The Birth Registers are kept by Government in regular course and extract from the Birth Register is sure to remove all difficulties in the way of fixing the age.

16. In view of the answer to No 15 this does not arise.

17. I should think that marital and extra-marital offences should be distinctly separate. I would fix six months' imprisonment in the case of marital offences and ten years in the case of extra-marital offences. I would also suggest that in cases of marital offences, imprisonment may not be effective to serve as a deterrent, a sentence of a heavy fine, in the alternative, may be provided for, in addition, if necessary, to the sentence of imprisonment.

18. I think the procedure now in force may be retained for both.

19. It would no doubt be better to provide sufficient safeguards against collusion, but they would themselves be instruments of oppression in the hands of unscrupulous men. The existing safeguards in this direction will, I think, be sufficient. But it is desirable that adequate safeguards against improper prosecution or extortion should be made. As suggested by me above, only persons nearest of kin should be entitled to complain, and in all cases of improper prosecution, a heavy compensation to the accused of not less than Rs. 200 should be provided. It is also desirable that a minimum sum to be fixed may be provided as condition precedent to the entertainment of the complaint so far as to ensure *bona fides*.

20. I think that penal legislation fixing a higher Age of Consent for marital cases will be more effective than legislation fixing the minimum age of marriage. I may also add here that the majority of the people are in favour of the earlier view.

21. I think legislation can never secure the object in view to as full an extent as progress of social reform by means of education and social propaganda can attain.

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**Written Statement, dated the 28th August 1928, of Mr. YANGEELA GOPALAKRISHNAYYA, Challaipatt (Kistna, Madras Presidency).**

Referring to your circular letter No. 42 A.C.C. which reached me on the 19th August 1928, I have the honour to enclose herein my replies to the questionnaire therewith received and to state that the law regarding the Age of Consent would be more acceptable to the public than the provisions of Mr. Sarda's Bill which proposes to penalize child marriages.

(2) Again Mr. Sarda has not defined the word marriage in his bill. As my replies to the questionnaire will show, there are generally two ceremonies performed in this part of the country in this connection. One is a formal ceremony linking the couple by a religious tie during their future lives, which according to the religious injunctions, should be performed before the girl attains puberty in her 8th, 9th or 10th year. The other is 'Garbhadhan' or 'Nishekam' ceremony which former is performed sometime after the girl attains her puberty; or if puberty is not attained until an advanced age Nishekam is performed if the girl is in healthy condition.

(3) If Mr. Sarda or the Select Committee define 'marriage' as applicable to the second ceremony, as I believe it is, so applicable then the proposed law of Mr. Sarda's Bill Select Committee would be superfluous as the penal legislation fixing a higher Age of Consent in respect of the husband would serve the purpose intended. The law as proposed to be amended by Sir Hari Singh Gour is sufficiently protective and further advance is undesirable at present. There is no question of penalising the girl-wife in Mr. Sarda's Bill. If Mr. Sarda's Bill should become law I would prefer that in addition to penalising the relations and others who were parties to such a child marriage those who abetted and were recipients of dowries in this connection be also brought under the strict purview of the law. The dowry system is working havoc on especially poor families in these parts.

(4) If on the other hand marriage is to be understood as the first formal ceremony above mentioned I apprehend there will be strong protests against its being passed into law on the grounds of religion and transgression of the limits laid down therein.

(5) I believe I have submitted all the information at my disposal in sufficient detail, but if you consider it necessary that I should give oral evidence also I shall not be unwilling to attend at the time and place named.

#### *Answers to the Questionnaire.*

1. None that I know of as regards the present state of the law. On the other hand there seems to be a slight tendency on the part of the enlightened public towards making an advance on the present law in the terms of Sir Hari Singh Gour's Bill. But it is not general.

2. The circumstances which in my opinion justify making an advance on the present law on the lines of Sir Hari Singh Gour's Bill are the moral and physical well-being of the community.

3. Crimes of seduction or rape are not frequent in this part of the country. Nevertheless the raising of the Age of Consent to 14 in marital relations or to 16 in outside marital state seems to me a welcome advance on the existing law.

4. The amendment of 1925 has had the effect of (1) postponing the consummation for fear of the consequences of the law, (2) public opinion is slowly and gradually being stimulated in the direction, (3) I cannot however say that it has had any effect in putting off marriage beyond 13 years in the case of communities who follow the injunctions of Hindu Societies. Generally speaking marriage in Hindu community in these parts corresponds to "betrothal" and nothing more practically although attended with several minor ceremonies involving much expense on both sides, but consummation or Garbhadhan is not effected until after some months at least, after the girl attains puberty. This is the rule amongst "Dwijas" or twice born, i.e., three out of the four classes into which Hindus are divided.

For stimulating public opinion in the matter of consummation of marriage I would suggest education and social propaganda as well. As regards the putting off of marriage (betrothal) it may not be desirable to raise the age beyond 12 as the general sense of the public who are bound by the Sastric injunctions limits the age to 10 years and increase beyond 12 under the present conditions may not find favour with the public. There are however some sections of the fourth community who merge marriage

and consummation into one ceremony which is performed after puberty. No specific law need be provided for them.

5. Ordinarily girls in this part of the country attain puberty between 12 and 13 years of age. There are no doubt instances in which girls attain puberty before 12 years of age even at 7 or 8, but these are extreme cases due to diseases. There are also some cases where the girls do not attain puberty until after 16 or 17 years of age. This delay is attributed to constitutional peculiarity. Girls of hard working classes do not generally attain puberty before 13 or 14 whereas those belonging to richer or upper classes attain age earlier probably because they are well-bred and well-fed.

6. Cohabitation is not common in this part of the country—

- (1) before puberty neither
- (2) soon after puberty nor
- (3) before the girl completes 13 years.

I do not know if any cases of infringement have come to Court. I do not know of any such cases.

7. The practice of early marriage before puberty is enjoined on the "Dwija" classes of the Hindu community. But consummation is not enjoined on any class or community before puberty and there are rules laid down to abstain from performing 'Garbhadhan' for some time after attaining puberty if the girl should attain puberty under the influence of an evil star. The good sense of the relations of the married couple determines the period that should elapse before consummation is effected after the girl attains puberty—considerations as to health, age and education of the bridegroom or bride prevailing. There is however an exception to the rule that if the girl does not attain puberty until after an advanced age, i.e., until after 16 or 17 years the ceremony of consummation called 'Nishekam' is performed as it is believed that the act would accelerate the girl attaining age, the authorities for marriage (betrothal) before puberty are contained in Parasaramadhaneeyam chapter on marriages.

The penalty (prayaschittam) for performing marriage at or after puberty is contained in Prayaschittakanda of Parasaramadhaneeyam. The authority for Nishikam will be found in Phalagrandham.

8. 'Garbhadhan' ceremony is usually performed in the part of the country. It coincides with the consummation of marriage, i.e., the later ceremony of joining the couple for cohabitation some time in several cases years or months after the formal marriage. It is generally performed after the attainment of puberty as a rule, except in the solitary instances of 'Nishekam' above referred to (2) and 7.

9. I do not think that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. An interval of 6 months to 1 to 1½ years according to the habits and constitutional tendencies of the girl after attaining puberty may be allowed to elapse to enable her to attain physical development to justify consummation without injury to her own health and that of her progeny.

10. Being tropical climate at 14, but in some cases where the girls are backward in either physical development or intelligence the age may range between 14 and 16.

11. I know of two cases in which cohabitation after puberty (not before puberty), but before full development of the girls had resulted in their death after first delivery and the children also died soon after.

12. Early consummation results in early maternity and as stated above is responsible for high maternal and infantile mortality. Except in extremely rare cases the offspring are found to be weaklings. I have not yet been able to form my decided opinion as to their intellectual development.

13. Please see my reply to question 1.

14. I do not think women in this part of the country favour early consummation of marriage for their children, unless on account of extreme poverty they are unable to maintain their daughters at home before



consummation, in which cases also they will be loath to part with them as long as possible.

15. I have not come across any cases of the kind. But if the law relating to the registration of births and deaths is made more effective, I do not think any additional special measures are necessary.

16. Certainly, because as age advances it would be more easy to determine the age of the girl by her physical development and facial expression, although there may be cases in which this test is ineffective, in which cases the deaths and births register would afford satisfactory evidence.

17. As it is essential in the interests of the community at large that extra-marital offences should be treated more rigorously I would that they are differentiated from marital offences. I would give my support to the punishment mentioned in the amended Section 376 of the Indian Penal Code. Only I would alter the punishment in the proposed Section 376-A to one of fine only or, if imprisonment cannot be dispensed with to simple imprisonment of one or two months. This I consider will be sufficiently deterrent and need not be more oppressive.

18. Yes. Against Section 376-A in Col. 8 "Presidency magistrate or magistrate of the first or second class" may be ordered to be entered instead of the one at present.

19. None as I think they are already sufficiently provided for otherwise.

20. I consider that penal legislation fixing a higher Age of Consent for marital cases is likely to be more effective than legislation fixing the minimum age of marriage. The former alternative would be in consonance with public opinion in this part of the country.

21. I would like that the penal law be strengthened as in the present reference and the object in view might also there be secured by social reform whose progress might be hastened by education and social propaganda.

### **Written Statement, dated the 6th August 1928, of Sree VIKRAMA DEO VARMA, Vizagapatam.**

1. No. As far as I have observed there does not appear to be any dissatisfaction with the Sections of the Indian Penal Code under reference.

2. I am in favour of raising the Age of Consent to 16, as this is the minimum age, sanctioned by Sushruta, the greatest writer on Anatomy and Physiology in ancient India. I am not in favour of making a distinction between the marital and extra-marital, as the same protection of the law is necessary to all the girls.

3. No. Hence the need for suggestions does not arise.

4. The age of consummation of marriage has been raised both as a result of the legislation and public opinion; but the age of marriage is not fixed.

5. Between twelve and fourteen years among the higher classes of society and twelve and sixteen among the working classes.

6. Cohabitation before puberty does not exist among the Oriyas; but for various reasons it exists to a certain extent among the Telugus of this part. Cohabitation soon after puberty is general except for economic or religious reasons, when it is postponed for periods ranging from six months to two years. No cases have come to Court to my knowledge.

7. I attribute all this only to custom and practice and not at all to any religious injunction.

8. The ceremony of Garbhadhan only exists among the Oriyas; and both Ganna and Garbhadhan among the Telugus, though Ganna is rare. There is no time limit.

9. Puberty is, in my opinion not always an indication of physical maturity to justify consummation. I am in favour of postponing consummation at least ten years after puberty.



10. Sixteen years.
11. I have no information on the point, raised in the question.
12. I consider that early consummations is one of the reasons.
13. It is gaining ground among the educated sections of society.
14. They do not now generally favour early consummation.
15. As such cases have not occurred in our part, I have no remarks to offer.
16. I should think the change would be beneficial.
- 17—18. I do not want that any distinction should be made regarding punishment between marital and extra-marital offences.
19. The existing safeguards are enough.
20. Among the Brahmans, Vaishyas and some other non-dvija communities post-puberty marriages are not the custom. So a distinction should be made between the age of marriage and the age of consummation. The object of the proposed legislation would be realised, if consummation before sixteen and marriage before ten are penalised. I am confident, that this distinction between the age of marriage not earlier than ten years and consummation not earlier than sixteen years of girls would be welcomed by all classes.
21. I am in favour of legislation; but it should be enforced in a liberal spirit.

**Written Statement, dated the 31st July 1926, of the Zamindar of  
Gollapalli, M.L.C., Gollapalli.**

1. (a) There is a dissatisfaction in Section 376, which I think in my opinion is too rigorous and it is to be mitigated.  
(b) In 375 in explanation 1 *penetration* shall be substituted with *illicit sex or intercourse*. I think the age restriction of 13 in Section 376 shall be increased to at least 16 apart from Sarda's Bill as emerged from the committee.
2. This is a question mostly related in this Presidency to Brahmin classes. When I was the President of a Local Board I had the opportunity to survey the opinion of the public of the locality when the Board passed a resolution to recommend to advance the present law to 14 and 16.
3. Seduction and rape in these parts are moderate compared with that of Western countries. But I do not think the amendment of the law of 1925 did any effect in bringing down the crime.
- I think the best remedy to bring down the crime is (1) by establishing brothels and (2) by prohibiting publication of all sensuous, visional and ocular demonstrations to restrict the brothel keepers by such law as would be possible to get only limited supply on hygienic lines and keep the inmates in strict seclusion from the society. As time passes the brothels can be reduced and abolished after seeing the experimentation of reduction of crime.
4. (1) I do not think so.  
(2) Though there is much vain talking about post-puberty marriages and the deterred consummation, I think there is much less action taken in that direction. I suggest that for an effective law it should be combined with commonsense. So a law regarding the marriages at 14 and 16 for girls and boys respectively may be enacted, so as to penalise marriages under that age as illegal and could be taken under Sections 375 and 376, Indian Penal Code. Also the marriage may be made illegal and the issue thus consummated by that marriage would not be the Aourasa under the Hindu Law of succession. Thus the public would be placed in a perpetual fear of losing their property or estate from their line of descendants if such marriages are performed.
5. Between 11 and 13 is the age of girls attaining puberty nominally. The rich castes attain puberty much earlier than the poorer classes.

6. (1) No. This is not common.

(2) Yes. Many families who edict to the vice of early marriages would consummate the couple just after puberty, when the womb and other organs of the girl show signs of development. This is highly objectionable on hygienic grounds, as it is the young child grappling too much food.

(3) *Vide* my answer 6 (2). I do not think any of these cases would come to Court.

7. I do not think any religion would go against hygiene and nature. This is a practice mostly in vogue in Mohammedan periods wherein constant fear of rape and abduction was apprehended.

8. The Garbhadhana ceremony is performed in these parts just after puberty or after the marriage when the case comes under pre-puberty or post-puberty marriages respectively. It is performed in many of the families and castes just after the puberty, say within a month. Those people who perform post-puberty marriages generally would wait for one or two years after puberty of the girl.

9. As I said before the attainment of puberty is a sign telling us that the development of the internal organs has just begun. So I cannot think of maturity of girls before she passes three years after puberty.

10. I think between 14 and 16 a girl can think of marriage. But I doubt much even at that age she can understand the whole responsibility of a marriage bond, which I think in India, where female education has to be progressed by leaps and bounds. This understanding would be attained only after 18 or 20.

11. Though I know from experience the health of many families shattered owing to the early consummation and pregnancy effected materially I cannot give any personal names as it might touch the hearts of those, as this questionnaire is not placed as confidential one.

12. Yes. The early marriages and consummation and maternity are responsible for maternal and infantile mortality.

13. I think there is a general feeling that the Age of Consent should be extended.

14. Yes Owing to the lack of female education.

15. I have no specific instances wherein the difficulty of differentiating has been experienced. If at all there is such difficulty I think the medical examination by a competent authority will minimise the difficulty.

16. I do not think so unless it is raised to 16.

17. I do not like any separation between extra-marital and marital offences. I would like to reduce the transportation for life to an imprisonment of not more than five years rigorous. I think any punishment should be to improve the character of the culprit and not to dam him and to take him out of the society for ever.

18. Please *vide* 17.

19. A tribunal may be constituted just like the jury from the locality of the offence to try the offender with the help of a judiciary authority.

20. I think it is better to fix the minimum age of marriage in a legislative enactment than to fix an higher Age of Consent for marital cases.

21. I would like that social progress shall be supplemented with a penal law such that fear may prohibit first and then common sense may prevail.

**Written Statement, dated the 10th August 1928, of Mr. AYYAGARI VENKATA SUBBA RAO, B.A., B.L., High Court Advocate, Berhampur (Ganjam).**

1. No dissatisfaction, as much attention is not given to the subject and no particular hardships are felt.

2. The health of the community justifies the making of an advance.

### 3. Not frequent.

The amendment had no effect as the sword sheathed had not to be drawn. Legislation should turn its attention to eradicate the cancer of prostitution, from the country, that rears its head not merely in the regular whore but in the professional nautch girl.

4. The amendment had no effect, but there is a general awakening in the country due to the spread of education and impact of modern ideas, compulsory education of girls and the opportunity that is derived thereby to keep a watch, so that the consummation is not ushered in before the prescribed age.

### 5. Leisured classes 13th year.

Labouring classes 14 or 15.

### 6. (1) Not common before puberty.

(2) Yes.

(3) Not common.

No cases come to Court.

7. No religious injunction, but a desire to shed responsibility and pass the girl on to the right quarter.

8. Yes. It coincides with consummation. It is generally performed in about a year after puberty.

9. Fairly sufficient indication but not enough to justify consummation. A year or two.

10. For a due realisation of consequences, 15 years should be the age.

11. The weak matters, puny babies, frequent cases of fatality in delivery which is considered a second birth for a woman, the post delivery illness known in Telugu as "Sutika", speak loudly about the resulting evils from cohabitation before full physical development.

12. Yes. We are moving in a vicious circle. The stalwarts of the previous times and even the stalwarts that some families who keep a high standard are proud to own, are rare.

13. Only the intellectual classes favour an extension. The masses are engrossed with bread winning and sexual thoughts play a secondary part with the hardy labourers.

14. No. They go to part with their daughters useful to them in manifold ways.

15. A case was thrown out as doctors differed with regard to age. A clause may be added to the section that the presumption of under-age will be drawn to be refuted by the party complained against, as similar presumptions are allowed for certain offences.

16. Yes, as the development is specific and quicker after puberty.

17. Extra-marital, 2 years, marital, fine only as the offence is venal.

18. Marital offences should be tried only by the High Court Sessions for the whole Presidency with due safeguards to avoid unnecessary publicity as is now done in England for Divorce cases. The High Court tried may prevent vexatious putting up of cases. The extra-marital cases may continue as at present to be tried by the District Sessions.

19. Answer to 18 covers this.

20. The legislation fixing Age of Consent more directly meets the present necessity of the hour, viz., to develop a robust motherhood, than the legislation fixing the marriage age which is a partial remedy to meet the above end and is not of much advantage to save the young widow who has already the Widow Remarriage Act to relieve her, if she so chooses.

21. All Penal legislation is hateful and it is forcing the medicine down the throat, specially as the legislatures are as constituted at present. Progress of social reform paves the way to the principle of self determination.

**Written Statement, dated the 15th August 1928, of Mr. M. VIYYANNA  
PANTULU GARU, Yakkil, Elore.**

2. I would prefer to raise the Age of Consent in cases of outside marital state by another year. In cases of married girls a husband should not be guilty of rape if his wife is under 14 provided she has attained puberty and in the opinion of the guardian of the girl she is physically fit for leading married life.

3. Cases of rape are not common in this part of the country.

4. The amendment of 1925 is creating sufficient public opinion to induce the parents to postpone the actual consummation ceremony. In castes which are bound by religion to marry their girls before puberty the amendment has no effect. I think the object of the amendment was not to prevent a marriage, but it is only to postpone the consummation ceremony till the girl is fit to be a mother.

5. The usual age is between 12 and 15. It differs with castes and classes of societies. Those that suffer from want of proper nourishment, etc., attain puberty at a latter age.

6. (i) It is not common.

(ii) There are instances particularly in cases of the husband who has married the girl as his second wife.

(iii) I did not hear any such case. None of these cases came to a Court of law.

7. I am not aware of any such religious injunction.

8. Yes. Garbhadhan ceremony is usually performed in this part of the country particularly among Brahmins and Vysyas. Usually the consummation of the marriage does not take place before that ceremony and it is performed one or two years after the attainment of puberty.

9. Attainment of puberty is not sufficient indication of physical maturity. The time to be given to a girl to attain physical development to enable her to be fit for consummation will depend upon each case according to the surrounding circumstances.

11. No. I did not come across with such cases.

13. No appreciable progress is noticed since 1925.

14. Yes. Because they consider motherhood as a great divine blessing.

17. Yes. I would prefer to have nominal punishments to marital offences committed against a girl who is at least 13 years old.

18. Yes. I would prefer to give the right to prosecute a husband only to the natural guardian of the girl only in cases where the girl is more than 12 years old. In cases where the girl is under 12, no such safeguard is necessary.

20. Yes. This country where certain communities have to marry their girls before a particular age legislation fixing the minimum age of marriage may result in far reaching consequences. The legality of the marriage may be open to doubt if the age fixed by legislature is more than that fixed by the religion. Fixing a higher Age of Consent for marital cases will not create any such difficulty.

21. I would prefer progress of social reform by means of education and social propaganda rather than penal law to have the desired effect. As the majority of the people are illiterate and conservative in religious matters penal law will not have the desired effect. It may send some young men to jail without creating any effect on the rest of the population.

**Written Statement of Mr. S. V. RAMESAM, Ganapavaram, Tadepallli Taluq, District Godavary.**

1. With regard to the fixing of the Age of Consent, Government should not concern itself in any way. The parents of the girl are the best judges

in regard to fixing the Age of Consent and they do so having regard to custom, Dharma Shashtra and experience. It is the opinion of the public, though there may be a few evils attending on such a social institution. People should be bound by the rules of the society, but it is not right that in such matters the State should interfere by means of legislation. People therefore do not approve of the Age of Consent Bill.

3. Uptill now in India we have not heard, even in lower castes cases of sexual intercourse by force. Since times immemorial, India being the ideal of all virtues; the birth place of Devas and Rishis who enacted rules for regulating one's business since one arises from bed in the morning till one goes to eat in the night, she has fixed her traditional prestige. It has given no room for forcible sexual intercourse (rape) or seduction. No fixed age, say 14 years, should be fixed for the Age of Consent. Girls attain puberty between the ages of 12 and 15 years according to the climate, health and the nourishment taken. It is therefore not desirable to describe the Age of Consent, but to suggest that it should be sometime 12 months after the girl attains puberty. Even this should not be made mandatory by means of legislation.

4. The amended legislation of the years 1925 was in no way put in force.

(1) Hitherto the consummation of marriage of girls under 13 years of age has not been prevented.

(2) On this head the knowledge of people has not advanced.

(3) Marriages of girls over 13 years are not supported.

Hindu Smritis (Manu, Badarayana, Parasara) don't approve of it.

5. Generally in the Andhra country puberty of girls take place between the ages of 13 and 15 years. There is no difference in this matter by reasons of castes or class.

6. In the Andhra country no man, be he of the highest caste or the lowest, agrees that his daughter should join her husband before she attains puberty. Even though under special circumstances, a father may indicate his intention to agree, the mother will never agree and will come in its way.

(2) The practice of consummating marriages on the 4th day of the maturity takes place here and there under special circumstances such as where the husband takes a girl in marriage after the death of his first wife or when he happens to be of advanced age. Even such cases as these are rare.

(3) Generally speaking girls attain puberty at the age of 13 and 14. It is the custom in the country to wait at least 1 full year after a girl attains puberty, so it is not usual to consummate marriages before they attain the age of 13 years.

8. Gaona or Garbhadhan is a ceremony that obtains among Brahmans and Vaisyas of the Andhra country. Among other castes such as Kahatrias and Sudras this takes place during marriage. In the two classes stated above namely Brahmans and Vaisyas this does not take place because marriage is performed at the ages of 10 and 11 years. In the case of other castes the Garbhadhan takes place during marriage because ages of girls at the time being 14 or 15 years. This is in consonance with the old customs or Dharma Shastras.

**Written Statement, dated the 29th August 1928, of Rai Sahib E. SEETHARAM RAO NAIDU GARU, Deputy Collector, Masuli-**

1. Very little, if any. There was a great deal of opposition during the discussions which led finally to the alteration of the law. It was almost entirely from the orthodox section. After the passing of the law, all opposition practically ceased, and I should say there is now no explicit dissatisfaction.

2. I advocate making an advance on the present law, though it would not practically be very effective. There will be some improvement which will be very slow. Further advance on the present law is not unlikely to deter some communities and individuals from consummating early marriages below 14. There will be no improvement unless there is some further advance.

3. Crimes of seduction or rape are not frequent in these parts, Kistna and West Godavery Districts. The question of proof of age is attended with very great difficulty, especially in the case of the lower and illiterate classes among whom alone chiefly, cases of rape or seduction seem to be rather frequent. Medical evidence which alone may be available in most cases relating to the lower and illiterate classes, cannot be deemed conclusive as to age. Cases of rape among the higher and better classes are hardly likely to be brought to notice or to come to light. Under any circumstances, I fear the law cannot be made really and actually effective for two reasons, viz., (1) that proof of age is difficult in the case of the lower and illiterate classes and (2) that cases among the better and higher classes will not be brought to light. No material reduction can be said to have taken place in cases of rape or seduction outside the marital state. The lower and illiterate classes and also not a few among the higher classes, I fear, are still ignorant of the change in the law.

4. The consummation of marriage is postponed more and longer now than before among all except the illiterate and lower classes. Marriage itself is deferred till after 18 except among the lower classes. But in not a few cases among the higher classes, the parents are compelled to marry their girls too early for fear that they will otherwise run the risk of losing the chance or opportunity of getting suitable husbands for their girls. Even here it is social reform and propaganda work that will produce better results than mere legislation.

5. Girls who are strong and robust generally attain age at 16 or 17, while weak girls attain age at 12—13—14 or 15. Those who attain age at 12 or earlier are not many. A large number attain age at 13. Most girls attain age between 14 and 16 years.

Among the working classes, the attainment of age is at a later age, viz., 15 to 17, generally. Among these some who are physically weak attain age at 13 or 14 and very rarely at 12. Among the higher and better classes, the girls almost as a rule attain age between 13 and 15.

6. (1) Before puberty—Very rarely if at all in the present days and if it exists, it is so among the lower classes where a very young girl is married to an aged man. In very rare cases this occurs even among the higher classes where a very young girl is married to a very aged person.

(2) Soon after puberty—This is very common among not only the lower classes, but also the higher classes such as, Brahmins, Vaisias, etc., who marry their girls as a rule before puberty.

(3) Before girl completes 13—I suspect very strongly that these cases do exist but that they are kept secret. Especially is this so, where a young girl is married to an aged man. I am not aware that such cases come to Court. In my opinion such cases will not be brought to light.

7. I am not aware that there is any religious sanction for the early consummation of marriages before or at puberty. On physiological grounds it is very desirable that the consummation of marriages should be deferred for 2 to 4 years after age of attainment, except in the case of girls attaining age at 16 or later.

8. I have no experience on this head.

9. Attainment of puberty is not at all a sufficient indication of physical maturity to justify consummation of marriage. Most of our girls having had their consummation performed too early became mothers soon after and their health had been much impaired in consequence. Their progeny has

also become very weak. A girl may be considered safely fit for consummation after completion of her 16th year or say 3 or 4 years after attaining age.

10. Only after completion of 16th year and not before, except in cases of precocious girls.

11. I have no experience of cases before puberty resulting in deterioration. I am certain that such cases must have resulted in deterioration, except in the case of very robust and strong girls.

In cases of puberty soon after maturity, or before the age of 15 or 16, the general health of the girls was as a rule impaired and their progeny were either weak or short-lived. I have noticed several cases of this kind among all classes but cannot give details of age. As to injury, I know that most girls suffered during pregnancy and confinement very much and several cases proved fatal during delivery. Most of these girls suffer from displacement of the womb, incessant and chronic discharges, consumption, piles, etc.

12. Yes, I do. In a large number of cases early maternity due to early consummation is responsible for the high maternal and infantile mortality. This is emphatically my opinion based on my personal observations.

13. I should say no. The further development of opinion is confined, as is always the case in such matters, to the educated classes excepting the orthodox section.

14. The women do favour early consummation as a rule. But educated women do not. Among the Indian Christian community, I should say they do not favour early consummation. The marriage of girls among this community is as a rule deferred till after 16 or 17 or even later.

15. Yes, the difficulties are very great. *Vide* my reply to question 3. Medical opinion by itself must be deemed inconclusive. This will be the only opinion available in the case of girls among the lower classes, who make no record of dates of birth of their children. Without knowing the date of birth, it is extremely difficult, if not impossible, to obtain extracts from the birth registers as to ages. I am not now in a position to suggest any measures to remove or minimise these difficulties.

16. The margin of error would not be materially reduced if the Age of Consent is raised only to 14, but it would be to some extent if raised to 16, not if raised even to 15.

17. Yes, they must be kept distinct and separate. I do not propose imprisonment except in default of payment of fine in the case of marital offences. The maximum punishment may be fixed at Rs. 1,000 only.

18. The offences within the marital state should be non-cognizable and bailable, but not compoundable as in the case of those without the marital state. They should be made triable as well by 1st class Magistrates and not less than 10 years' experience as 1st class Magistrates as by Sessions Judges.

19. No prosecution of offences within the marital state should be instituted except with the previous sanction of the District Magistrate. These cases should be investigated by Police officers, not below the rank of Deputy Superintendents.

20. The fixing of a minimum age for marriage will raise a world of opposition and should not be resorted to. Penal legislation fixing a higher age say 16 will be surely more effective, but this will also be strongly protested against now.

Neither will it be in consonance with real public opinion, including the opinion of other than the educated section.

21. I would not depend exclusively on the progress of social reform, but would recommend the strengthening of the penal law which cannot but be to some little extent effective.

**Written Statement, dated the 16th December 1928, of Mr. Y. SUBRAHMANYAM, Secretary, Theosophical Lodge, Vizagapatam.**

1. Yes. The Age of Consent should be raised to 16 and 16 should be substituted for any figure less than that occurring in the section.

And men of 45 years and more should not be allowed to marry girls.

2. Yes to 16. Grounds :—

- (i) our experience as theosophical propagandists and social servers that physical development is not possible till then, to have healthy children and to have healthy mothers if delivery of children occurs below 18 years of age.
- (ii) There can be no education worth the name to be aware of the responsibilities of married life before completion of 16 years, as mental slavery is the result crippling thereby all individual thought and feelings, the experience of which is the only means for the growth of the soul.
- (iii) It would there be possible to undertake domestic responsibility to choose and create her own environments at her own free will and she need not blame parents; as otherwise she is the victim of a contract made by her parents without her knowledge. She can reject, after completing 16 years, if the parents propose to marry her to old men.
- (iv) We are not satisfied with the raising of the Age of Consent, but we ardently wish that the marriage itself should not be permitted till 16, as the numbers of widows who are to a great extent below that age would be diminished by about 50 per cent. at least.

3. Occasionally.

4. (1—2) No.

(3) Yes.

5. In labouring classes it would be between 14 to 16. But in others it would range between 12 to 13 or at just the close of 11th year.

6. (1) Rare.

(2) Common.

(3) Occasional.

They seldom come to Court.

7. We do not know of any religious injunction, and Sastras do not compel as far as we know.

8. In Brahmins and Vysvas, the ceremony "Garbhadanam" is performed generally immediately after puberty and in other castes, within a year or so after the attainment of puberty.

9. No. Three years after puberty or after completion of 16 years may be considered proper age for consummation.

10. After completing 16 years, and even that, after being given full scope for her, by free and compulsory and right kind of education.

11. As far as it is known from experience as theosophical propagandists and social servers, we have not seen any healthy mother or children born as a result of consummation before 16. By 18, all such mothers would be too old even to look after their children's welfare. The majority of such cases is so very great that details would occupy much space.

12. Certainly.

13. The public opinion is really developing of course in theory after cogent reasons are given. This is so in families where there is much suffering and where orthodoxy is fading due to compelling circumstances.



14. Women in this part of the country who have any opinion to give are not in favour of early consummation.

15. No.

17. No distinction needs to be made between two classes.

18. In both the cases the enquiry should be private.

19. The trial should be conducted by sub-committees to be appointed for the purpose. So that the trial may not be aggressive.

20—21. Penal legislation of fixing the Age of Consent and marriage equally at 16 would be more effective by making its infringement a cognizable offence than mere legal legislation. The public opinion might be against in some parts and until and unless such drastic steps are taken this unkind and perpetual slavery of girls (without their consent given with full-grown knowledge), but with the traditional and often ignorant and custom-loving parents, entering into marriage contract for which they are not themselves parties. This is a greater offence than "Sati" which would really end the life at one blow, but this would subject the innocent girl to life-long burning at the taunts and ill treatment of husband, mother-in-law, father-in-law and sister-in-law (specially widowed) and others. This inhuman practice cannot be stopped until and unless the Government would take drastic steps as in the case of "Sati". Mere social reform propaganda is useless in tradition-trodden environments. But right kind of education would do well but would take moons.

#### General.

In consideration of the above, we request that the committee will kindly recommend the proposals made against questions 20 and 21, and in consideration of the improvement of social condition and so as to avert the great social ostracism towards those that rightly take up social reform.

#### Written Statement of Mr. E. NARASIMHAM, Group Organising Secretary, Vizagapatam.

1. Yes. The Age of Consent should be raised to 16 and 16 should be substituted for any figure less than that occurring in the section.

2. Yes, to 16. Grounds :—

- (i) My experience as theosophical propagandist and social server for the last 12 years shows that physical development is not possible till then, to have healthy children and to have healthy mothers if delivery of children occurs below 18 years of age to the mother.
- (ii) No possibility of average education at least, to know the responsibilities of married life; as such mental slavery is the result crippling thereby all individual thought and feelings, the experience of which is the only means for the growth of the soul.
- (iii) It would then be possible to undertake domestic life, to choose and create her own environments at her own free will and need not blame parents; as otherwise she is the victim of a contract made by her parents without her knowledge.
- (iv) I am not satisfied with the raising of the Age of Consent, but I ardently wish that the marriage itself should not be permitted till 18 as the number of widows who are to a greater extent below that age would be diminished by about 50 per cent. at least.

3. I do not quite know the statistics but I hear that there are some cases. There are certain cases of seduction for immoral purposes among dancing girl class. The effective measure would be the infringement of law to be cognizable by the Police.

4. No. To make it effective we are to raise the marriageable age to 16 but not the Age of Consent only. Thus it would enable the girls to indepen-

stantly rebut the proposals of parents. My experience is that grown up girls are generally revolting against the inconsiderate marriage proposals of their parents.

5. In labouring classes, it would be between 14 to 16. But in others it would range between 12 to 18 or at just the close of 11th year.

6. Yes—in (1) very rare, (2) and (3) too many. I do not know if these would come to Court.

7. I do not know of any religious injunction and Sastras do not compel as far as I know. But they do so only following tradition.

8. The ceremony "Garbhadanam" is performed generally after attaining puberty and it coincides with consummation.

9. No—The best age of such fitness is 16 years (completed).

10. After completing 16 years and even that, after being given full scope for her mental development by free and compulsory and right kind of education.

11. As far as I have known from my experience as theosophical propagandist and social server, I have not seen any healthy strong mother or children born as a result of consummation before 16. By 18, all such mothers would be too old even to look after their children's welfare. The majority of such cases, I know, is so very great that I cannot give details.

12. Certainly.

13. The public opinion is really developing of course in theory after cogent reasons are given. This is done in families where there is much suffering and where the orthodoxy is fading due to compelled circumstances.

14. As a matter of fact the consummation takes place as a matter of course and without due thinking nor are women consulted, they being in their dire state of mental slavery—Even if they object they are treated roughly or are not cared for.

20—21. Penal legislation of fixing the Age of Consent and marriage equally, at 16 would be more effective by making its infringement a cognizable offence than mere legal legislation. The public opinion might be against in some parts and until and unless such drastic steps are taken this unkind and perpetual slavery of girls (without their consent given with full-grown knowledge), but with the traditional, unthought for, and often ignorant and custom-loving parents, entering into marriage contracts for which they are not themselves parties. This is in my opinion a greater offence than "Sati" which would really end the life at one blow—but this would subject the innocent girl to life long burning at the taunts and ill-treatment of husband, mother-in-law, father-in-law and sisters-in-law (specially widowed) and others. This inhuman down treading of these poor souls cannot be stopped until and unless the Government would take drastic steps as in the case of "Sati". Mere social reform propaganda is useless in tradition-trodden environments. But right kind of education would do well but would take some.

#### General.

In consideration of the above I request that the Committee will kindly recommend the proposals made by me against questions 20 and 21 in consideration of the improvement of social condition and so as to avert the great social ostracism towards those that rightly take up social reform.

**Statement, dated the 6th December 1923, of Mr. ARYA-SOMAYAJULA SOMAYAJULU, Oreswar, P. W. D., T. R. S. Sub-Division, Visagapatam.**

The time for Garbhadanam is stated in the sastras as follows :

(1) If the bride wants a son very early, the intercourse may take place on the 1st day of the marriage.

(2) If the bride as well as the bridegroom are hasty for having sexual intercourse the Garbhadan should be performed on the 4th day of the marriage, provided the girl had matured during the duration of a good-star.

(3) If it is a bad star, after marriage, the couple must wait (for 10 or 15 days) till the menstrual period occurs again. Amongst the 18 days from the 4th—18th, a day which is not bad should be selected and Santi ceremony done and Garbhadanam performed.

(4) Garbhadan is of two kinds. The Vivaha Samavesa is part and parcel of the marriage. Even though the marriage takes place after the menstrual period of 16 days passes away, it can be done. It consists of two important *mantrams* (1) Tam Pushan, (2) Aaroha Urum. In the first *mantram* the bridegroom prays the Sun God to instigate the girl for sexual intercourse so that she may not run away from the bed room. In the 2nd *mantram*, how to do sexual intercourse is explained. It means "ascend the thighs of the bride, i.e., sit on the thighs of the bride and so on". This is also called Vivaha Garbhadanam by Katyayana Rishi, etc. The 2nd Garbhadan is a separate Samakara intended for the welfare of the future children. These *mantrams* should be recited only during the 16 days menstrual period of any menstrual period but not the first necessarily. This is called Naimittika Garbhadan.

(5) The couple can wait till an auspicious day. If the auspicious day falls during menstrual period of 16 days, both Vivaha Garbhadan and Naimittika Garbhadan *mantrams* recited and the couple joined. If the 16 days pass away, the Vivaha Garbhadan *mantrams* can be recited and couple joined. The 2nd set of *mantrams* will be recited after 10 or 15 days when the girls takes her monthly course again.

The above are given as per Grihya Sutras of Apasthambha Katyana, Baradwaja, etc. No pre-puberty marriage is sanctioned therein.

No Pandit quoted a *mantram* from the Vedas in support of pre-puberty marriage. But there are *mantrams* in Rig Veda which say (1) A girl in youth can marry a Brahmachari in youth, (2) A man should marry a girl desirous of having a husband, e.g. :—

Hence there is no sanction in Vedas for child marriage. Marriage *mantrams* want a matured girl in youth.....

The 1st three years after puberty is the proper time for marriage as given by Manu. The minimum age is 12. But 8 is given in cases when Dharmia vanishes rapidly from a man..... A Snataka should marry within three years after he becomes a Snataka. If a beggar cannot get a bride within three years and if he thinks that he has to remain as Snataka for the whole lifetime, then he can marry any girl say 10 or 8 years. But this is no authority since it is sanctioned for cases of difficulty and danger.

As regards the question put by your Mohammedan member, pre-puberty marriages were very very rare in former Yugas and they have been largely introduced in Kaliyuga. The Kaliyuga began 5,029 years back. Pre-puberty marriages began about 4,500 years ago, i.e., some 500 years after the Mahabharat battle (5,065 years before). This is stated in Old Parasara's Smriti which is the authority for Kaliyuga..... This is accepted by Manu and others for Kaliyuga. It also means "marriages before puberty are Nishedha or mean. Hence they should not be done in the Kaliyuga". This Rishi says that pre-puberty marriages are as mean as widow marriages. Hence he ordered that both pre-puberty marriages and widow marriages should not be done in Kaliyuga, because the former encourage widow marriages. Since men stopped widow marriages women are authorized to stop child marriages by old Parasara's law of Kaliyuga. Means do not excommunicate people in the Kaliyuga for performing marriages before puberty. This shows that pre-puberty marriages were punished by Rishi in the former Yugas. You may say why should this come in now?

This old Parasara ordered the following which are accepted by Manu and others, for Kaliyuga :—

(1) A man should not marry a widow.

- (2) A man should not enjoy with his dead brother's wife and beget children even for her or for himself for doing death ceremony to him or her.
- (3) If a man's wife does not beget children, he should not have Dharma Santanam through his wife, he should remarry a virgin.
- (4) A man should not become a Sanyasi. This was cancelled by Sankaracharya.
- (5) A man should not become a Vanaprastha after 50 years. Since he remains as Grihastha he is not marrying a virgin.
- (6) A man should not remain as a Brahmachari life-long or for a long time say 40, 80.

All the above six people (classes) began to marry virgins of 18 years. They became exhausted. If a girl of 13, 12 completely is not available, men began to marry girls of 10, 8, 6, 7, 5 and so on. But post-puberty marriages were going on side by side. During the days of anarchy before the Mohamedan invasions or afterwards, our elders gave up post-puberty marriages. So that post puberty marriages may not raise their heads again, they added some *alokas* to be *Smritis*. These are merely the mischief of the elders in those days but they are not the opinions of the Rishis but Phorjaris made recently.

The age of marriage at present is 1 year. A Brahmin girl aged 10 months was married in Vizagapatam, two years back. In this district in villages, Sudras marry their girls in the 3rd year or 4th, etc. Fix the age of marriage at 12 complete. As a compromise with the orthodox Pandits, I agree to 11 or 10 even because something is better than nothing.

Birth is not the proper thing to be taken into consideration for fixing the age of marriage. Stop all marriages before puberty. Let every man report the date of puberty of his daughter to Government and then perform the marriage. If an orthodox Brahmin makes a false report and marries his daughter before puberty let him do it. If he admits that he has performed marriage after puberty, that is sufficient. Then he cannot excommunicate the other Brahmin who marries his daughter after puberty actually, in the 1st or 3rd or 5th or 10th years. Punishment for prepuberty marriages should be two years' rigorous imprisonment. By fixing the age of marriage at 10 or 11 there will be two troubles. Before 10 Government trouble. After maturity caste trouble to the father. Hence maturity should be fixed as the minimum age of marriage.

Every village officer may be asked to report the date of maturity of a girl which may be registered by Government. Consummation may be stopped for one year after puberty. Age of Consent should be 18 only and not more. If consummation takes place after a few days or few months after puberty, then only it forms one of the many causes for infant and mother mortality. If it takes place in the 2nd year, the child will be healthy and strong as also the mother. The chief cause for this is late marriage for men with unequal brides resulting in excess sexual intercourse because we cannot provide each man with two wives.

You quote books of Surruta. But medical works are dependent on Ayurveda which is dependent on Rigveda. Rigveda mantrams of marriage say as follows :—

- (1) Moon enjoys the girl before puberty.
- (2) Gandharva from date of puberty till she is married, i.e., till her breasts grow up completely and become visible to others.
- (3) God of fire enjoys her afterwards. As soon as fire gets the girl into his possession, the marriage can be performed and Gandharva asked to go out. The time of enjoyment for man and fire is the same: moon was already sent off by Agni.

Some girls take six months after puberty to complete the growth of their breasts (houses for milk) and some nine months. Hence nuptials should be performed after nine months or 1 year utmost. The time for marriage and

Garbhadan is the same. The interval if any is only a few days or 1 or 2 months and not more. Hence the Age of Consent should not be more than 18. If you stop Garbhadan in the 2nd year of puberty it will be a Raksha's deed. It may be tolerated by the people just as Ravana's actions were tolerated by Rishis for 15 years. If you stop nuptials even in the 8th year, it will not be tolerated. People will hereafter give votes to such people who promise to cancel the Age of Consent and send them to the Legislative Assembly. Such committees only will be formed to enquire the Age of Consent, other men and ladies will come to witness and the law cancelled. If possible stop marriages until 18 or 14 complete.

It is not consummation that is ruining women. It is marriage. Child-marriage is a "widows manufacturing machine". Stop it if you can, since it is the fancy of parents. Nuptials is the necessity for youths and there should be no compulsion which leads to debauchery, etc.

**Punishments.**—Parents may be punished, only if they perform the Garbhadan ceremony before the fixed time (i.e., 1 year after puberty or two years). If the couple join with each other secretly, nobody should be punished for any number of days meeting. Because they cannot meet freely often and often. If the girl becomes pregnant, the parents must be allowed to report the fact to Government and then perform the Garbhadan ceremony in the 8th month after pregnancy. No punishment is necessary because that itself is a punishment. Because nobody will stoop to meet his wife so meanly before Garbhadan. Parents can safeguard their girls quite well for two or 3 years against foreigners, i.e., debauchery and our girls also do not stoop to it generally. But they will easily consent and yield to the husband, because they know that their future is in his fist and they cannot raise their voice even if he rapes her.

If you punish pregnant cases, girls cannot allow their husbands to go to prison nor even to pay heavy fines; they will simply take medicine and kill the child in her body. Rich may pay the fine imposed.

As regards the question put by your member (male) on the left hand side near Mrs. Nehru, regarding the laws of Kaliyuga, I have already given them above. Mr. Vikrama Deo Varma quoted some six *lokas* from New Parasara. He is no authority for Kaliyuga against old Parasara. His laws are only a subordinate work for Kaliyuga. He himself stated therein that he learnt laws of Kaliyuga from old Parasara along with Manu and others. Why not Brahmins do widow marriages as sanctioned in New Parasara's book (father of Vyasa)? In the new Parasara's work there should be 578 verses, but in Bengal and Bombay editions there are 579. I think the six verses quoted by Mr. Vikrama Deo were newly added, during times of conquest as explained before. In Madras, there are only 572 *lokas*. The Brahmins here are very cunning. They omitted some six or seven other unimportant *lokas* to cover the mischief.

In Puranas there is not even one child marriage. Rishis married grown up girls. At the time of marriage Rama completed 16 years and Sita completed 17 years. They stayed in Ayodhya for one year after marriage and went to forest (only 12 months).

Kanyadanam is not part of the marriage. There should be an interval between marriage and Kanyadanam, marriage should be performed after the three Gods enjoy the girl and give Saucha, etc., and Kanyadan before Gods enjoy the girl, i.e., in 8 to 11 years. Marriage should take place after 12½ years. In the intermediate time, Moon and Gandharva enjoy the girl.

**Written Statement of Mr. M. SARYATESAM, B.A., L.T., Retired Headmaster, Government Secondary Training School, Guntur.**

1. Yes. The Age of Consent should be raised to 16 years as against any age below it in the sections.

2. (1) None.

(2) Yes, to 16. Grounds :—

Before that time the physical development of the girl cannot be complete for the functions of a would-be mother. It would be therefore injurious to the health of the girl and her issues.

Earlier consummation comes in the way of education and emotions and mind have no chance of growing to the limit which may be naturally expected, otherwise. This mars the happiness of the individual girl and of the whole family.

The present system has already deteriorated the physical well being of the nation, and it is necessary that suitable laws should be enforced, not only made to preserve the nation in any effective state.

3. To make the law effective, more powers may be given to Police in the case of prostitutes.

4. It has not been effective except that it has been educating the public opinion to some extent. I propose the following measures to make the law more effective—

(1) Punishment may be awarded to parents and the parents of the husband.

(2) Notice of consummation may be ordered by law to be given to the Police beforehand, so that they may make enquiries if any crime is to be committed.

(3) The best thing would be to fix the minimum age for marriage as 16.

5. Among well-to-do people it may be between 12 and 18 and in the labouring classes, i.e., those who live by daily or monthly wages, it may be between 15 and 16.

6. (1) Very rare.

(2—3) Many.

7. There is no religious injunction—but the unwise tradition is the binding moral law which gives us woe.

8. The ceremony is performed soon after the attainment of puberty in Brahmins and Vysyas and generally soon after marriage in the case of post-puberty marriages.

9. After the completion of the 16th year, a girl in India may be fit for the ceremony of consummation of marriage. I would recommend still further postponement if people can afford to do so.

10. After the completion of 16 years, if the parents take care to educate her on the subject.

11. Early cohabitation generally resulted in injury. The cases are numerous. Serious injuries to her health and that of the children is the rule in case of early cohabitation. I give some cases—

(1) Age of cohabitation between 13 and 14. Her death was in her 23rd year. Children 3, of whom only two are alive. Labour very hard in the three cases of confinement.

(2) Age of cohabitation between 18 and 14. Her death was in her 23rd year. Children three born, only one survives. Labour was very hard in all the confinements. Death was due to the last confinement.

(3) Now age 48. She looks as old as one of 70. Cohabitation between the 14th and 15th years. Three issues live now aged 29, 27 and 16. Three children died within two years of their birth. Three abortions. The eldest daughter living is always unhealthy was the mother of a child which died on the third day of its earthly life. The second daughter is also very weak. The third, a son is fair-looking at present.

12. Yes.

18. Public opinion has developed of late. But the people are afraid of the purohit and some orthodox Brahmins who are fanatical in following the soulless traditions:

14. Not the enlightened.

20. Fixing the minimum age for marriage would be more effective. This is the real public opinion, although they are afraid of the Purohit and unwise rules of conduct in the name of religion for which there is no specific authority which can be called final. Moreover, selling girls which is also very brutal would come to an end, if the minimum age for marriage is fixed as the completion of 16 when there would be revolt from the girls against their interests. Real public opinion is in favour of minimum age for marriage. This is the opinion of the intelligentsia.

21. Besides social reform and education, it is necessary that law also should help the public who fall victims to sentiment and threats of the Purohitis.

### **Written Statement of Mr. P. S. T. SAYE, Bar-at-Law, Bapatla (Guntur District).**

There is dissatisfaction in this part of the country with the existing state of law as to the 'Age of Consent', for it is believed that a girl at the age of 12 or 13 is really incompetent to give consent.

The existing law is found to be ineffectual and the minimum age prescribed under Sections 375 and 376 also is found to be too low to be of any real advantage to safeguard the health, morals and the best interests of the girls of tender years in this country. The intellectual and physical development of an average girl in South India in particular remains almost the same from 11 to 13 and the girls generally attain puberty between 11 to 14. The girls that attain puberty early do not seem to develop the physique even after puberty until they are at least of 14 years of age, the attainment of puberty being due to other causes of degradation and not to real maturity of the physical body. The early attainment of puberty in this country is due to heredity, climate, joint family life, want of education, early marriage and the customary ceremonies after the early marriage when the husband and the young wife are made to sit together and listen to songs and watch other such functions which give rise to thoughts which seem to go a long way to cause early puberty. The association of these young girls with married men and women and their residence in houses where all are thrown together in one and the same room as in the case of poor people in particular appear to my mind to be contributory factors to cause early puberty. The early puberty being thus due to causes other than real maturity of the physical body is really a negligible factor in deciding the fitness of the girl for sexual intercourse without detriment to her health. After this immature puberty the girls in some cases get deteriorated in health and continue to be just as slim and tender as before puberty. Therefore it is really not possible to decide whether a girl is of 11 years of age, 12 years of age or 13 years of age and consequently serious difficulties would arise in determining the age when the question of the age is directly in issue.

The very object of the penal law in fixing the minimum age for sexual intercourse being to protect the health of the subjects, the law is rendered infructuous, because the said minimum age is mostly within the margin of error. It may also be noted that the Registrar of Births being the Village Munsif, the Birth Registers are generally kept in a most unsatisfactory condition. They do not therefore furnish safest guides in determining the age. The people in general are ignorant, superstitious and not over punctilious to speak the truth when confronted with a prosecution. False evidence to support their defence to get over the clutches of law would not be found wanting. It may be further noted that in cases where young girls are married to widowers of several summers, the insistence of those inhuman wretches



for a consummation of marriage immediately after puberty is found to be common and generally insurmountable and the unfortunate erring parents, in the hope of avoiding destruction of a fancied happy home, are compelled to submit to the cravings of the sons-in-law. Therefore for these and other reasons I am distinctly of opinion that if the 'Age of Consent' is raised at least to 15 in all cases both within and without the marital state, a good deal of protection would be afforded to helpless girls.

3. I do not consider that seduction and rape are frequent in Andhra Desa but there are nevertheless at least about 40 to 50 cases in a District like Guntur though in fact 50 per cent. of them are not even reported to the Police. The amendment of the law made in 1925 is more or less a dead letter. It is not known to people in general and the machinery of the law as it exists to-day is incompetent and it has not at all been successful. Seduction of girls for immoral purposes is largely confined to a class of persons who traffic in immorality. Their condition has been from times immemorial is of great distress and disgrace to India. The professional prostitutes are more or less freely tolerated by the society and the State. The efforts of large hearted souls in the field of reform by education and propaganda has not achieved much of success. The quarters where these brothels are situated are outside the pale of the ordinary society and the girls that are initiated into this immoral business and outraged in tender years go mostly unnoticed and uncared for. The Police too are indifferent to such cases as they are not cognizable.

(a) I therefore urge that these offences must be made cognizable.

(b) Sexual intercourse with an unmarried girl or a widow though considered a *feme sole* must be made punishable under law and the law relating to prostitution must be revised and rendered more effective. Prostitution or immoral business must be made punishable under the Penal Code and Section 497, Indian Penal Code, may have also to be amended so as to bring cases of sexual intercourse with an unmarried girl or a widow as "adultery" within the purview of that section. This would in my opinion operate to exterminate the pernicious system of professional prostitutes in this country and save humanity from further humility and perdition. Elimination of this great social scourge is a pressing necessity.

4. The consummation of marriage takes place in private and nobody is informed and none takes care to ascertain the age of the girl at the time of consummation with the result that offences are committed unnoticed, uncared for and undetected and with impunity. I therefore suggest that registration of marriages (consummation) must be made compulsory. The village Munsif who is the Registrar of Births and Deaths in the village may be deputed to function as registrar of marriages also and failure to report a marriage must also be made penal. The marriages must be reported within 24 hours to the District Magistrates mentioning the date of the birth of the girl concerned. If the date of birth is found not registered in that village the date must be ascertained from the parent or guardian of the girl as well as the place where the girl was born. In such cases a duplicate copy of this marriage entry should be forwarded to the Village Munsif of that village who should fill up the date of birth and submit the same expeditiously to the District Magistrate who should verify and satisfy himself. This procedure would in my opinion be of great educative value and serve to minimise, if not to eradicate the pernicious system of early consummation of marriages. To prevent possibilities of corruption or extortion on the part of the Village Munsif proper control and supervision coupled with severe penalties for perfunctory or irregular or reckless discharges of duties or maintenance of records should be imposed.

5. The age of attainment of puberty is not uniform in all classes and communities in Andhra Desa. The Brahmins and Vysayas attain puberty earlier than in the other communities. The girls generally attain puberty in a Brahmin and Vyasa community between 11 to 13 years of age. The girls in other communities attain age between 12 and 14. But the consummation of marriage in all communities except in the Brahmin community generally



takes place soon after puberty, with the result that the small difference in the age at which girls attain puberty in the various communities does not materially affect the real damage or injury caused to the girl as the consummation of marriage takes place before the girl is 18 or 14 years of age.

6. Cohabitation is not at all resorted to before puberty except in cases which are very rare where the girl does not attain puberty till after 14 or 15 years of age or where the girl is initiated for purposes of immoral traffic. These instances are rare.

Cohabitation soon after puberty is common in Vysya and Sudra communities and cohabitation before the girl completes 18 years is found to be at least in 80 per cent. of cases. Unfortunately none of these cases come to Court because the contracting parties and their parents and neighbours are so situated that they cannot be expected to report these cases. Public opinion is neither strong nor sustained to make itself effective or felt. Law is thus rendered a dead letter and the State and its executive officers are also indifferent.

7. I do not for one moment attribute the practice of early consummation of marriage to any religious injunction. There is absolutely no authority as far as I am aware prescribing any such injunction or penalty for its breach. On the other hand the authorities describe in clear terms the girl that has to be married. The description is clearly and unequivocally indicative of the fact she should be a healthy, physically well-developed person of not less than 15 to 16 years of age.

8. Garbhadanam ceremony coincides with the consummation of marriage. It is performed after puberty and the time after puberty at which it is performed varies with the communities as mentioned *supra*.

9. I do not consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. The result of my observation and experience induces me to pronounce that a girl would not have sufficient physical development till at least three to four years after puberty to justify consummation without injury to her own health and that of her progeny.

10. A girl in India is incompetent to give an intelligent consent to cohabitation with a due realisation of the consequences until she is at least 15 or 16 years of age. The girls are generally not educated, they have absolutely no knowledge or conception of sexual science and at a tender age below 15 years she is just as good as a baby in her teens and it is too much to expect that she could give an intelligent consent with due realisation of the consequences of cohabitation.

11. I have been an advocate for over 11 years and I have come across a large number of cases of cohabitation after puberty but before the full physical development of the girl and invariably in all such cases the cohabitation resulted in serious injury to the health and body of the girl and prejudicially affected their progeny. I am aware that in all those cases the girls were between 12 to 14 years of age. Some had consumption; some died being unable to deliver; in one or two cases the girls became unfit for further family life; some girls had successive abortions, still-born children or undeveloped tiny, unhealthy, weaklings who would have been better if dead, both in the interests of the children themselves and of their parents who are put to untold suffering and misery for some years by reason of the children's ailments and for the rest of their lives by reason of their deaths. The girls themselves though mechanically moving about, conceiving and delivering in the manner above stated, are physical wrecks and the pleasures of real family life are unknown to them and their existence is a continuous misery both to themselves and to their husbands. The vitality of these girls is invariably sapped out entirely and they have become fertile fields for all kinds of diseases for their ravages.

12. I do consider that early consummation and maternity are largely responsible for the high maternal and infantile mortality though I am also

aware that want of sanitation, poverty, ignorance and mal-nutrition are also contributory factors in raising the percentage of the above said mortality.

13. The mute masses are ignorant and indifferent. The educated public opinion is distinctly in favour of extending the Age of Consent in marital and extra-marital cases.

14. The women in this part of the country do not at all favour early consummation of marriages of their children. The early consummation takes place for the various reasons and under the circumstances mentioned above. I am aware of instances when early consummation of girls was made by reason of compulsion of inhuman and aged husbands of girls much against the will of the mothers.

15. Difficulties have been experienced in determining the age of the girl in connection with offences under sections 375 and 376, Indian Penal Code. To minimise these difficulties, I suggest that Registration of Births must be made more strict and latches in this direction by persons concerned must be severely dealt with.

16. I would consider that these difficulties would be materially minimised if the 'Age of Consent' is raised to 15 and 16 years. The difficulty is not half so great as when the girl is between 10 to 13 years.

17. I would separate the marital from the extra-marital offences. I would prescribe two years imprisonment of either description or with a fine up to Rs. 1,000 or both for marital offences and for extra-marital offences some punishment as for rape under the existing law.

18. I suggest that in the case of marital offences, the offences must be made triable by a 1st class Magistrate and no Court should take cognizance of such an offence without the previous sanction of the Local Government and provided further that it shall not take cognizance of such an offence unless the complaint is filed within a reasonable time to be prescribed in that behalf.

19. I do consider that penal legislation fixing a higher Age of Consent for marital cases will be more effective than legislation fixing the minimum age of marriage. This view is in consonance with public opinion in this part of the country. The opinion with regard to fixing the minimum age of marriage is keenly divided. The orthodox "Dwijas" in particular are strongly opposed to fixing the minimum age on religious grounds but there is absolutely no difference of opinion and there cannot be any, with regard to fixing the 'Age of Consent' for consummation of marriage.

20. I would personally prefer to rely on the strengthening of penal law to secure the good object in view for I have no doubt that several of the evils could be eradicated by penal law only. Progress of reform by means of education and propaganda is found to be too miserably slow in a country like this in particular where ignorance is rampant, where several bad customs and social evils have crept into the vitals of the race in the name of religion and usage, and where public opinion particularly in matters social is very poor ineffectual and indifferent.

21. Your questionnaire reached me on the 9th of August 1928, and owing to pressure of other work it has not been possible for me to send you a more detailed and useful statement so as to reach you not later than the 15th within the limited time at my disposal. If you so desire I am perfectly agreeable to be examined orally by the committee if it should so desire.

**Written Statement of Dewan Bahadur V. ANUNTHAROW PANTULU GARU, Retired Manager, Vizianagaram Samasthanam.**

On the 8th instant, your worthy President after an interesting discourse on the subject of the Age of Consent Bill handed to me a printed copy of

the questionnaire and said that he would be glad if I sent to you my written answer duly signed. Those papers say that a reply should be sent before 15th August 1928, and this was impossible as I happened to receive the question papers only on the 9th December 1928. I have carefully studied the Bill and feel horrified at the extreme severity of the punishments and the abject abdication of those rights and prerogatives which nature and our laws have for ages invested us with to a foreign Government whose religious, social and domestic customs are so divergent and opposed to ours, and who therefore cannot understand much less appreciate our sound vedic customs. Moreover our rulers and ourselves occupy different spheres of the world where the climatic effects are so different and opposed to each other; and their laws and customs as at present in force, are necessary for cold climates and unavoidable for their comfortable and happy existence, while ours are equally necessary for life in hot and tropical climates. Their female population do not attain puberty nor develop the physique until they reach 20th or 25th year of age at least, while our females are attaining full blown maturity by about the 14th year at the latest. There are many Indian ladies who have become mothers of two or three children by the 18th or 20th year. There are strong and healthy persons of 60 or 70 years of age living at this date who were born when their mothers were 13 or 14 years of age and their children are strong, healthy and stalwart as their parents. Thus it is quite plain that consummation of marriage according to climatic conditions and personal developments has from time immemorial not become a subject of complaint or a grievance for redress. In such circumstances it is most undesirable to upset ancient customs and systems of marriage and much more so, to place them under the control of foreign rulers. Moreover, except from a few imitators and admirers of western civilisation and modes of life which are quite ruinous and unnecessary to us, there has been no complaint from any appreciable number of Hindu population against our existing system of marriage or its consummation and is therefore quite autocratic to press on the Government their innovations which, only a small minority are advocating for. It is very humiliating to represent to the rulers that we are unable and incapable to arrange and carry out according to our altered customs and views, our own domestic and social rites and customs and that they should help us to do so by the aid of their constabulary and magistracy. Besides such a petition is signing the death warrant to that tremendous agitation for the attainment of self-government. Any reasonable man much more a Britisher at once would say to our agitators "If you cannot manage your domestic and religious matters within the limited confines of your own house how can you manage the whole of the Indian Empire so vast and so divergent and inhabited by so many different races, religions, languages, habits and customs: therefore remain content with what you have and as you are". The Government and the imitator of foreign customs are not more interested and solicitous for the welfare of our sons and daughters than the parents. The supporters of the Bill would not help the poor parents in difficulties and masses to get a good meal to secure sufficient clothing to protect their bodies a dwelling to live in or medical help to save disease. There is not constructive provision of any sort in the whole of the Bill which is destructive on all sides. What a horrible affair is it even to think that a husband who has been rightfully married shall be imprisoned and even transported for life for any commission or omission against those rules in the Bill. Who is to decide the exact age of the married lady. Many thousands of people have no horoscope or even date of birth and the fate of the girl is at the tender mercies of the constabulary or the magistracy who to say the least, are not over-conscientious or scrupulous to respect the honour and modesty of a Hindu lady. In a matter of this sort a Magistrate of full blown authority and power squeezed the breasts of a respectable lady of high position to satisfy more his lust than his doubts about her delivery. What can be more horrible than this kind of brutality? This Bill does not appear to guard against such atrocities. Many an unfortunate finance does not understand the serious penalties that the ordinary terms of marriage make him liable to.

I would very strongly suggest that a serious enactment such as is advocated by Sarda's Bill and the Age of Consent Bill be not given my consideration until after a referendum to the whole country is made, and every man and woman, is made to understand the terms of the Bill and each individual vote is secured and recorded. I therefore decide not to answer these questions because I am thoroughly opposed to these bills which are ultra-vires and despotic trespasses on the religious and social spheres of the Hindus and an inexcusable set aside of Her Majesty's successor's solemn declarations and promises to us. The majority of the Indians are strongly of opinion that the foreign Government are not the proper authorities to judge and decide the social and domestic customs of ancient subject people. Social boycott and exclusion from society should be the punishment for any grave offences against our own laws and customs when they are proved to the hilt and not otherwise.

With regard to the high rate of infantile deaths I assert that early marriages, or consummation thereof do not constitute the chief and real cause of that high death rate. It is due to the extreme poverty of the masses which does not enable them to secure even a second cloak, for the accouched lady nor provide for her healthy food or nourishment which had made her dry and the infant being necessitated to live on rice kanji. The most insanitary and insufficient accommodation, absence of medical help in case of need and above all deceased condition of the husband who has long before the time become played out and contracted diseases whose contagion spread the poor innocent wife and inherited from her by her children—the cigarette smoking from infancy which has burnt their chests dry; these are the real causes of the high death rate of infants—which was not the case some 25 years before now, due to the fact that these horrid vices had not been so rampant then. If these bills were passed, the Dwijas, specially the 1st and 3rd sections will be reduced to great difficulties. They will be at the tender mercies of the not over-scrupulous mirmidons of criminal law. The honour and modesty and position of families will suffer unthinkable horrors, troubles and insults. These bills close a safe gateway for the people to propagate and prosper as they have done for so long and open a broad and unmolested door for adultery and immorality and disease by tending indirect support to brothels which an unmarried youth of 16 years can with impunity resort to and there ruin himself and his wife and future generations.

Moreover, these bills will place a dangerous weapon in the hands of unscrupulous officials and they can wield it at their sweet will and pleasure. It is not to be forgotten that the Rowlett Act, Bengal Ordinance, etc., have been passed to strengthen the hands of the Government in cases of extreme necessity and how they have been resorted to of late years so also will be the results of these proposed acts which an unmarried youth of 16 years can with impunity resort to and that these views are the result of long personal knowledge and experience of an old man of 75 years of age and the head of a large and healthy family—and to note them in his report.

**Written Statement (Vernacular) of Mr. RAMADUGU YENKATA-SUBRAMANYA SOMAYAJI, Cocanada Taluk, East Godavari District.**

1. No dissatisfaction.
2. No new conditions have arisen which necessitate alteration in the existing law.
3. There are neither cases of rape nor elopements in our parts. Such cases are extremely rare. Since marriage is not usually consummated below the age of 14 no alteration in the existing law is necessary. Hence no question of raising the age.

4. Since there are no cases of some consummation of marriages below the ages of 13, 14, and 15 the amendment has served no purpose.

(i) The question does not arise.

(ii) Public opinion is in favour of consummation after puberty.

(iii) It is not possible to delay marriages till 13, since shastras enjoin marriage before ten. Hence the amendment has not helped in that line.

(iv) Omitted.

5. Girls do not attain puberty in our parts till 13, 14 or 15, with slight variations depending on their constitutions. Not much difference between one community and another.

6. Consummation does not take place before 13 whether puberty is attained or not.

7. Consummation before puberty is not in vogue, excepting a few cases where after the attainment of the age of 15, mothers bring about consummation of marriages while they think the girls have attained age, as shastras also favour this view. Though the shastras permit consummation immediately after puberty, such cases are only 10 per cent. because if the time of puberty is inauspicious consummation has to be delayed for 6, 8, 10, and even 12 months till an auspicious day can be fixed. It may be delayed on account of various other intervening causes such as the health of parties or other mishaps to them. In the absence of any practical inconveniences shastras like (Kalanumthan) support consummation immediately after puberty. Failure of consummation after puberty is according to shastras visited with the highest sin—"Brahma Hatha". The ceremony of consummation takes place along with the marriage while actual consummation takes place after puberty in the absence of any obstacle.

9. Puberty occurs only after physical development and where the reverse is the case, consummation will be delayed until after physical development is attained. It may be delayed for any length of time until there is physical development and there is no shastraic injunctions prohibiting such.

10. Girls are inclined to join their husbands after puberty.

11. No consummation takes place either before attainment of puberty or physical development. No injurious effects have been experienced in cases of consummation before puberty but after physical development.

12. Maternal mortality, infant mortality and a deterioration of the race are not due to early consummation but may be on account of bad diet, irregular habits and bad customs. These evils call for a different remedy other than prohibition of early consummation.

13. Enlightened opinion has not advanced further, though some unthinking women are raising a hue and cry in the press which does not deserve notice.

14. No. But they will be anxious to consummate marriages from the moment of puberty.

15. Yes. The question is bound to be contentious.

16—19. See answer to question 15.

20. Legislation is quite unnecessary. It will be disastrous. Public opinion is in accordance with traditions.

21. Where it is necessary social reform propaganda is enough without legislation.

## COORG AND ADJOINING PLACES.

### Written Statements of persons not orally examined.

#### Written Statement of Dr. Mrs. ANNA THOMAS, In charge of Maternity and Child Welfare Work, Bangalore Cantonment.

1. There is dissatisfaction among both the orthodox and the reformed classes. The orthodox want the old order of things to be retained, while the reformed want further legislation by increasing the Age of Consent.

2. (2) The age restricted by the present law is not enough. In most cases girls in India, at any rate in South India, attain puberty at the age of 12 to 14. I have come across instances in which girls attained puberty at the age of 12 and less, and I remember one instance of a girl of 9 years attaining puberty. The attainment of puberty cannot be considered as an indication of physical growth to justify consummation of marriage. Considering the delicate health of the present generation, especially of our girls, and the pernicious results of the enforced motherhood on girls in their teens, in the interests of the girls themselves, their progeny and the future of the nation, it is absolutely necessary to allow the consummation of the marriage of a girl only if she is at least 16 years old.

3. As far as I am aware, this law has not been exercised in this part of the country.

4. In spite of the raising of the Age of Consent, by law, I am of opinion that among the orthodox classes, the old order of things still prevail. By merely passing the law, matters of this kind cannot be remedied. I am of opinion that every marriage should be allowed to be solemnised only on receipt of a license of a duly constituted licensing authority appointed by Government, and the license should be granted only on production of a medical certificate with regard to the age of the parties and their physical fitness for the consummation of the marriage. This may sound a very extreme step, but I am strongly of opinion that without such strong precautions, the object for which the law is to be passed will be defeated.

5. Please *vide* my answer for question 2, part 2. My observation is that the so-called higher caste people such as the Brahmins, Vellalas, etc., attain puberty much earlier than the so-called depressed classes, who work hard and live an outdoor life.

6. Among higher classes, especially the Brahmins, cohabitation is generally allowed soon after puberty and they have a ceremony called the "Nuptial ceremony" which allows the husband to share the bed of his wife on an auspicious hour, and it is done with the sanction of the elders and after great feasting and other Tamasha. I have known many instances, among the Brahmins, that though society and religious codes do not permit so, girls, before puberty, are forced to share beds with their husbands. But this is generally seen among widowers of age who marry young girls.

I have conducted the delivery of a young Brahmin girl aged 13, who had already a child of 11 months in hand. She looked so delicate and emaciated.

I have not heard of any cases coming to Court.

7. It is believed by Hindus that early consummation of marriages are conducted under strict Shastric injunctions. I have not read these injunctions myself. But I have read the arguments of great scholars for and

against the point, and Shastric authorities are quoted by both the parties to prove their arguments. My personal opinion is that the scholars are capable of twisting the interpretation of the slokas to suit the purpose of their arguments.\* A commonsense interpretation of these injunctions, taking the present condition and needs of the society in view, is the safest and surest under circumstances.

8. I have no idea of these ceremonies. But a ceremony called the "Nuptials" is common among the Brahmins and I have stated about it in my answer for question No. 6.

9. The attainment of puberty is not sufficient indication of physical maturity. At least 3 years should be allowed after puberty for consummation and never earlier than the age of 16. Owing to climatic and other reasons girls in India attain puberty when they are very young. I have seen many of these young girls who have attained puberty at the ages of 10, 11, 12, and 13. I can boldly say that none of them had sufficient physical development or health, not to speak of the mental inclination, for the consummation of marriage.

10. Never before the age of 16.

11. I have come across many cases:—

- (1) X aged 13, a Brahmin girl, was forced for nuptial ceremony just after puberty. With injured parts, she was brought to me for treatment as she could not pass urine. The poor girl was trembling, and the shock was so much, that she had to be treated for several days before she came to herself.
- (2) Many cases were brought to me by the very husbands themselves who thought that there was something very seriously wrong with their wives. On examination, and after speaking to those poor girls, I had to ask them to allow some more time for those poor girls to develop themselves and be fit for motherhood. Without understanding the real point at issue, they used to tell me with an amount of satisfaction that "the girl matured just 4 months ago" and the nuptials were conducted already. Even educated men with University degrees have told me so.
- (3) Many child-mothers of 13, 14 and 15 years of age have come to me with emaciated babies, and in worn out condition of health for the treatment of themselves, and their babies.

12. Maternal mortality and Infant mortality are higher among the classes of people who promote early consummation of marriage. A study of the available statistics will convince this. Among the depressed classes, though dirt and poverty are more prevalent among them, maternal and infantile mortality is not so high among them. The one possible explanation is, that the so-called high classes who promote early marriage and early consummation, by early motherhood forced on their girls in their teens, and subsequent constant conceptions, render them weak and die premature, and the babies in the care of these child-mothers meet with the same fate of their mothers.

13. The masses are extremely ignorant in this matter. The public opinion in this matter, either for or against, is generally found only among few politicians and among some Brahmins. Some political parties are indeed trying to make some political capital out of this purely social matter. The orthodox Pundits evidently playing in the hands of some political wire pillars behind the screen are crying that "religion is in danger and Government are interfering in religion". I am perfectly sure that the masses have no such opinion. 90 per cent. of the population are entirely ignorant of these developments and even if they know, they don't bother about these things. The fact is that they are not at all affected by this legislation.

14. Majority of the women of this country are illiterate and owing to their blind faith in religion, ignorance and superstition, they are against any reform of any kind. In these matters they are entirely guided by the priestcraft. As a rule, the average women of this country are very anxious



to see the grand children, and the moment a girl is born they begin to speak about her marriage and propose matches. To see the child of her own daughter is an ambition of the average Hindu woman. They are ignorant of the physical consequences of early and forced motherhood on their girls. As a matter of fact, they are unable to understand that aspect of the question. Women have told me that "I have delivered this girl when I was 13. This girl is now 15, and it is 2 years since the nuptials were conducted. Will you kindly examine her and see why she has not yet conceived." Owing to the pernicious custom of heavy sum of dowry and Varalsukam, etc., among the Brahmmins, the women are anxious to see that their daughters are married and live with their husbands as early as possible. This is an economic problem to the poor. Because the older the girl is the greater will be the amount demanded of the parents.

The one solution for the problem is proper spread of education and culture among the women. For example, in Travancore, which is my native place, the Brahmmins are following the Syrian Christians and the Nairs of that country, in the matter of sending their girls for higher education. There is a great demand for these educated Brahmmin girls for marriage from among the England-returned educated Brahmmins of other countries and no dowry is demanded.

15. I have not come across any instances in my experience.

16. Unless the Age of Consent is raised to 16 the least, the margin of error in determining the age will not be reduced or minimised.

17. I would not separate.

18. No difference should be made.

19. Please *vide* the answer for question No. 4.

20. When once a girl is married to a man, the Hindu ideal of womanhood which looks upon the husband as a God, would naturally give her consent, whether she is really willing or fit for it. Therefore it will be more effective the minimum age for consummation is fixed as the minimum age for marriage. But the orthodox classes, who consider that marriage should be conducted before puberty, will protest. The protest of a set of superstitious people to continue a pernicious custom need not be respected in view of the greater benefit of a larger section of humanity. For example when Sati was stopped by legislation, the orthodox people protested and cried that religion was in danger. Now after several years, both the orthodox and the reformed equally respect it and praise the Statesmen who brought about the "revolutionary piece" of legislation. If the innocent girls, their progeny and the future generation are to be protected, the only possible way is to fix by law the minimum Age of Consent as 16. But if the object should be achieved, I would emphasise the point of fixing the age of marriage as 16, and in my opinion that is the effective way to combat the evil.

There is hardly any strong *bond fide* public opinion here in this matter, either, for, or against. People who want to make political capital out of this, are making noise and I am not prepared to accept this noise as the voice of the people. I don't see any feeling or excitement among the masses, and I am moving very closely among the masses.

21. If it is agreed that the present system is an evil, and, its continuation any more will be prejudicial to the health of society in general and the health and safety of the girls and their progeny in particular, all genuine efforts must be made to stop it. In the present state of illiteracy among the masses, to educate the public opinion on this matter will take another 50 years the least. The point at issue is, that, can the State or Society delay for 50 years more if the evil is really an evil? How can a thing knowing it to be an evil be maintained. The evil must be stopped and the best way to stop it is to stop it by legislation and then educate the masses to appreciate the urgent need of such a legislation and thus enable them to co-operate with the State to achieve the object of it.



**Written Statement, dated the 2nd August 1928, of Mr. G. W. PRIESTLEY, I.C.S., Commissioner of Coorg.**

Practically all the questions in your questionnaire presuppose the existence in a person attempting to answer them either of an extremely close acquaintance with the most intimate details of private life or of extensive medical knowledge or of both. To the first I am unable to lay claim and I am not a doctor. Consequently I regret my inability to answer your questions.

But speaking from the point of view of an official, supposing that fresh penal legislation is introduced in this matter, it would be interesting to know how it is going to be enforced. Who is to set the law in motion?

One cannot imagine the possibility of the police being set to dig into people's private affairs to look for crimes of this sort and in the existing state of public opinion it is not easy to believe that any private person will bring a complaint of this kind unless impelled thereto by undesirable motives.

The enactment of the proposed legislation is thus likely to serve as an expression of the disapproval of the practice by the legislature and nothing more. In practice the legislation will probably be a dead letter unless enterprising blackmailers discover that it has added a very powerful instrument to their equipment and it will take a very strong character indeed to stand up against blackmail based on threats of filing a complaint for an offence of this kind.

**Written Statement, dated the 7th August 1928, of Mr. P. J. LOBO, Yirarajendrapet (Coorg).**

*Reply*

1. There is no dissatisfaction.
2. (1)—(2) The almost universal practice of adult marriage in this country justifies making the proposed advance.
3. Crimes infrequent even after the 1925 amendment.
4. (1)—(3) Custom in the country is in advance of the law as amended in 1925.
5. About 13 years.
6. (1) No.
- (2)—(3) Among a microscopic minority. Cases very rarely come to court.
7. No information.
8. No information.
9. Cannot offer a competent opinion.
10. After 15 years (at least).
11. No.
12. I consider early consummation and early maternity very harmful.
13. As mentioned before custom is in advance of the present law.
14. No.
15. No information.
16. No opinion to offer.
17. I favour the proposed amendment.
18. Yes, trial of marital offences may be in camera.
19. No.
20. Minimum age of marriage would be better. Public opinion is not agitated, custom favouring adult marriage.
21. Where social reform is stagnant, and no progress is made, stimulus of law ought to be applied gradually.

**Written Statement, dated the 9th August 1928, of Mr. M. BHUJANGA  
RAU, B.A., B.L., Government Pleader and Public Prosecutor,  
Meroara.**

2. It is necessary that an advance should be made on the present law. In the community to which I belong that is the Gowd Saraswat Brahmins of South Kanara the marriageable age of girls has risen during the last twenty years. I have noticed that amongst other Brahmins also, there is a rise of the marriageable age and with it of the consummation of marriage.

5. The minimum age is 12. It varies between 12 to 16.

6. Consummation was common in my community soon after puberty. But the marriageable age having risen, consummation soon after puberty is looked on with disfavour and is becoming infrequent.

9. At least two years have to elapse after a girl attains puberty, for the consummation of marriage.

10. Unless a girl attains 16 years, she is not competent to give an intelligent consent.

12. Early consummation is certainly responsible for many of the avoidable ills in the society.

14. Early consummation is not liked on with favour by intelligent ladies.

15. By improving the registration of births and deaths; for instance adding a column in the register giving the name of the child after it is named--this may take sometime; also enacting that all the names of the children should be given.

20. Penal legislation is more effective for securing the object in view than the fixing of the minimum age of marriage. The state has to interfere when wrongs to individuals are committed. Consummation of marriage before the girl has completed her fourteenth year is a wrong; its prevention will bring about the personal protection of a large portion of the population. This will indirectly raise the marriageable age.

21. Some generations back the marriage of a girl after 11 or 12 was viewed with some fear. Now-a-days marriages before that age are becoming exceptional. Society has sufficiently advanced and will approve of penal legislation. The object of legislation is the well-being of the citizens. There is no doubt that a large mass of the population thinks that the object of the proposed legislation is the promotion of the well-being of the citizens by protecting the girls of tender years.

**Written Statement, dated the 7th August 1928, of Messrs. A. B.  
CHENGAPPA, M.L.C., and C. S. WUTHIAH, M.L.C., Green  
Hill, Virajpet, South Coorg.**

Coorg is a Province the main population of which are Coorgs. The majority of the other people are Hindus among whom there are only few who conform to the rigid rule of post-puberty marriages almost negligible to be taken into account to express our views regarding the latter. Others are Mohamadans, Christians and Sudras belonging to the labouring class. We are happy to inform you therefore, that in this land post-puberty marriages is an exception rather than a rule. We feel diffident therefore to express an opinion with regard to matters we have hardly any experience. We shall therefore confine ourselves to matters of general importance only.

5. Girls in these parts attain puberty between 14 and 16 but we understand that among those who are purely vegetarians girls attain puberty earlier. Except among Brahmins and high class Hindus there is no post-puberty marriages, but the general tendency even among them is to postpone consummation of marriage fairly long after puberty.

**D.** The attainment of puberty is in our experience certainly not a sufficient indication of physical maturity to justify consummation of marriage. We are decidedly of opinion that girls should not be married before 18 years and in no case before 16 so that there may be time at least 2 or 3 years after puberty for their bodily development not to speak of their being able to understand the consequences and responsibilities of cohabitation. We consider that it is a crime to compel girls for marital life before they are at least 16 years.

13. We may safely assert that the general tendency among those whom it affects is to extend the Age of Consent to 16 as is now suggested. We may state that it is a most desirable step to amend the law as at present proposed as we find that minor girls for seduction find protection under the penal law Section 361 till 16 years, but only till 14 for a graver offence under Section 365.

14. Women in our parts do not favour early consummation of marriage and in fact they are strong in opinion that it should be beyond 18 years.

17. We favour the idea of separating the marital offences and make them non-cognizable and compoundable so that the sanctity of home and subsequent home-life may be preserved.

20—21. We do not frankly consider that legislation fixing higher Age of Consent for marital cases will have the desired deterrent effect. This law we think is unholy as it seriously affects the subsequent married life of the girls who may not be responsible for the prosecution of their husbands. The better way certainly is to legislate and fix a minimum age of marriage and penalize the parents or guardians and we wish to bring to your notice that the whole country supports the latter view and gives its hearty supports to Mr. Sardar's bill. India has in our opinion to take a bold step by legislation and not wait for social reformers as in our experience the so-called social reformers are, as often as not, more platform orators but do not practise it in private life and will never be able to overcome age-long prejudice of orthodox for years to come.

**Written Statement, dated the 11th August 1928, of Mr. G. SREENI-  
YASA RAO, B.A., B.L., Basavangudi, Bangalore City.**

1. There does not seem to be any dissatisfaction regarding the law as contained in Sections 375 and 376 of the Indian Penal Code. It may safely be said that a large section of the people in this part of the country are ignorant of the law as contained in the above sections. It must not, however, be understood that people here have not heard of the word 'rape' and the resulting consequences of its commission. Rape is popularly understood in this part of the country as an offence committed on a girl who has not yet attained her puberty. Regarding its punishment, they vaguely know that the criminal is punished but its severity and duration they rarely know. When it is stated that they are practically ignorant of the law as contained in the Indian Penal book, it follows that people can have no opinion formed regarding it. It is therefore said that there is no dissatisfaction regarding it.

2. (1) The following circumstances justify the retaining of the law of the Age of Consent as it is:—

(a) In England and probably in many countries of the West, the Age of Consent is not higher than thirteen years. The distinction in law between married and unmarried persons which is found in our law is not to be observed in the English law. The existence of the distinction between married and unmarried people in our law is perhaps due to our own peculiar religious and social ideas of the chastity of a girl.

- (b) To make any alteration in the existing law, some great social or other difficulties must have been found. In the absence of any such difficulties, it is unwise to make any change in the existing law. As we have not found any remarkable social or other difficulties which arise from the existence of the present law on this subject, it seems unnecessary to make any alteration in the law. It may be usefully noticed that constant changes in any law lead to great deal of confusion and uncertainty.
- (c) In the absence of any weighty medical opinion pronounced in favour of the sudden raising of the Age of Consent, it is not right to effect any change in the law on the subject.
- (d) This subject is peculiarly such that any law which is not in consonance with public opinion can easily be evaded and the object of such law nullified. It is not prudent to have in the statute book a law which is constantly disobeyed.
- (e) The raising of the Age of Consent by legislature and making its contravention an offence punishable by the penal law without any serious demand for such legislative measure will have the unfortunate tendency of increasing the number of offences. Acts which under the existing law are not offences are suddenly converted into crimes by passing such a legislation.
- (f) The law on the subject must always content itself with assisting the progress of social reform in that direction. The change that it effects should blend itself with the progress achieved by social reform. The change wrought by law in this direction should always be imperceptible if it is to be tolerated by the people. Any law which seeks to effect this change openly perceptibly is condemned either as unpopular or as one interfering with the religious usages of the people. In this part of the country there does not seem to be any remarkable and steady demand for this piece of legislature.

(2) For the reasons mentioned in 2 (1) it is not advisable to make any change in the existing law on the subject.

3 The offence of rape is practically rare in our part of the country as the following statistics will show. It will be useful to remember that all these offences are offences outside the marital state. In 1922-23 the number of offences reported for the whole State was only 10, while the number rose to 13 in 1923-24, but it fell down to 10 in 1924-25. In 1925-26 there was a slight rise and the number reported was 13, but in 1926-27 it suddenly rose to 20. Even the highest number reported looks quite insignificant in proportion when compared to the population of the State which is about 5,859,952 at present. It is suggested that figures from England, France, United States of America and Japan may usefully be compared.

The above quoted figures indicate a tendency of the figures to go up after 1925. But this tendency need not alarm us as the figures available now are only for two years after the amendment. If we have figures for at least 10 years, we can then definitely pronounce any positive opinion on the decrease or increase in the offence. A portion of that increase may also be attributed to the fact that cases which under the old law would not have become offences and would have remained unnoticed, have since the amendment become offences and noticed by courts of law. Again we may note that in 1925-26 the number of districts where no such offence was reported to have been committed was 4 while in 1926-27 it increased by 2. The fact that out of the 8 districts in our State only in two of them cases are reported to have occurred counteracts the suspicions created by the slight increase in 1926-27 and also substantiates the belief that cases of rape are few in our State in addition to indicating that such crimes are confined to only certain areas. In Bangalore, Shimoga, Chitaldrug, Tumkur, Mysore and Hassan districts, no such cases happened in 1926-27 while in 1925-26 there were no such cases in all except in the Tumkur, Kadur and Kolar districts. In the

Kolar district, which seems to be a sort of criminal district, the number of offences in 1926-27 was double that in 1925-26. Occurrence of a large number of crimes and their doubling in 1926-27 in that district may be partly explained by the fact that Kolar is a gold mining district attracting to its boundaries all sorts of people from various parts of the globe. We can therefore note that there is no alarming increase in offences since the last amendment. Even the slight increase in the number of cases cannot be said to be the direct result of the amendment. Certainly the figures have not decreased since 1925-26 and we cannot therefore say that the amendment was successful in lessening the number of offences. So far as our State is concerned, we can say that the amendment of 1925 was of no effect either in increasing or in decreasing the number of offences. The question of suggesting fresh measures is therefore not possible.

4. (1) It is to be admitted that among the people here, especially among the people of the cities and towns, a custom has grown up postponing the consummation of marriages. But the growth and development of this custom cannot be attributed to the influence of the amendment of 1925 as the overwhelming majority of the population is still ignorant of the change effected in 1925, a considerable portion of the people is ignorant of the existence of any law on the subject. Among those communities who follow the custom of pre-puberty marriages, the question of the effect of the change of 1925 does not become very important. From the beginning, there was no feverish anxiety displayed by them to marry their girls early and the marriage and consummation of their girls were generally governed by the fact of the physical development of the girl and the financial and other conveniences of the parties. These facts seem to be the prime factors in determining the proper period for marriage and consummation. Their custom of generally postponing consummation even after the post-puberty marriage has the desired effect in cases where the marriages are celebrated immediately after attainment of puberty by the girl.

This question assumes importance in the case of those communities which marry their girls before puberty,—the principal among such communities being the Brahmmins. The maximum period for marriage of the Brahmmin girls is marked by the attainment of puberty and the period for consummation is any time after that happening. Originally till twenty or twenty-five years ago, it was the prevalent custom to celebrate the consummation before the lapse of twenty days after puberty. But since then the custom has undergone a slow change and we now find the definite custom of postponing nuptials. No definite period of postponement is prescribed. The period is determined by the convenience and the physical development of the parties. This change cannot be attributed to the beneficial influence of the amendment of the Law on the subject in 1925. The necessity for change was found and its practice was established long before the amendment of 1925. In adopting this custom, the people were more influenced by the love of their children and the financial and other considerations of the parties than by the then contemplated change in Law on the subject. To attribute any effect to the new Law, there must have been some perceptible change in the custom among the people regarding consummation but no such perceptible change is observed since 1925. What was before is steadily progressing and the Law cannot take credit for any change which is steadily taking place without the influence of the Penal Law of the country.

(2) The already recognised and established custom of postponing consummation cannot be said to have become appreciably stimulated by the amendment of 1925. What the Law has done is that it has given a legal sanction to what was already the prevalent and recognised custom of the people. But, it must be noted, the amendment cannot be said to have had no effect. The wavering members, a small proportion of the community, are now effectually prevented from following the custom that was followed during the days of their Forefathers. Beyond this the amendment of 1925 has not effected anything substantial in this part of the country.

(3) It has not all succeeded in putting off marriages beyond thirteen. This question does not arise in the case of those communities which follow the post-puberty marriage custom as the girls among them generally attain their puberty at or after the 13th year. The Brahmins, the principal community in the other class are very reluctant and even hostile to postponing marriages beyond the date of puberty. The age of thirteen is generally considered to be the period marking puberty and naturally they are hostile to any change in their practice. The present Law has not effected any change at all and the marriages are celebrated before thirteen as they were being done before. From the state of public opinion here on this point, one can reasonably suppose that such marriages may continue to exist for at least one or two generations, occasionally one finds marriages being celebrated even after the completion of the thirteenth year but such cases are very rare and far between. Moreover, it must be noted, such marriages occur not as the result of the amendment of 1925 but because of some difficulties such as the selection of a suitable bridegroom, etc.

Postponing the consummation of marriages, stimulating the public opinion in that direction and the putting off of marriages after 13 cannot be achieved by passing a legislative measure. These objects can best be achieved by means of social reform and propaganda. For this purpose, the purpose of a propaganda, the organisation already existing for holding the Baby Show and for looking after the child welfare may be usefully harnessed. Without being content with merely awarding prizes for the best mother or for the best child. Successful attempts should also be made towards more propaganda work. Interest should also be created in the minds of the people to possess well built body and to have as their partners who are equally so. Occasional lectures on sex and on the evil effects of early consummation may also be arranged to be delivered to young men studying in the High School Classes. All these suggestions, it may be seen, duly help in universalising the practice of late consummation but are not calculated to make the Law more effective. No suggestion can be given to make it effective as the subject it deals with is quite peculiar.

5. The usual age at which girls attain puberty in this part of the country is between 12 and 15. It may be useful to note that a large number of such cases occur only after the 13th year; very few falling before the 13th.

The difference in age at which girls do attain puberty in different castes is discernible. Girls belonging to the non-Brahmin communities attain their puberty later than their sisters of the Brahmin class - amongst whom a good number of cases falling between 12 and 13 can be said to be almost unknown amongst the non-Brahmins, their girls attaining puberty generally after the 13th year.

The difference in time between the rich and poor classes is also marked but it must be noted that it is never so marked as the difference that exists between the Brahmins and the non-Brahmins. It is a well-known fact that girls of the richer classes attain puberty earlier than those of the poorer classes.

6. (1) Except for the few cases of rape, no case of cohabitation with a girl before her puberty is either known or reported. It may be useful to note in this connection that practically all cases of rape that have appeared before our Courts are cases of cohabitation with girls before their puberty. The table already mentioned (Ans. 3) clearly shows that even cases of such offence are rare. We can therefore say that instances of cohabitation before the girls attain their puberty are practically nil. This conclusion applies equally to all classes of people here.

(2) It was once the custom amongst the Brahmins to have the consummation celebrated before the completion of 20 days after attainment of age by the girl. Probably the texts mentioned in Ans. 7 and the popular notion that no special day need be fixed if nuptials is arranged before 20 days after attainment of puberty were at the bottom of such a custom which is now followed more in the break than in observance. Now-a-days even among

the Brahmins—the only community which felt itself bound by that rule—that practice is becoming rare. Town folk and Brahmins who have had the benefit of even an High School education have invariably disobeyed this rule of custom and have postponed the consummation to some later period than the one once prevalent. The old custom seems still to linger in the villages where we not very frequently hear of consummation being arranged within 20 days after the puberty.

The non-Brahmins seem definitely to postpone nuptials of their girls. Both non-Brahmin communities which like the Brahmins have the practice of pre-puberty marriages and those which marry their girls after the attainment of puberty, do definitely postpone consummation. Both these two sections of the non-Brahmins celebrate the consummation generally after a lapse of 3 months from the attainment of puberty by the girl. We can therefore say, that cohabitation soon after the attainment of puberty by the girl is rare amongst the non-Brahmins and that such cases are becoming less frequent among the Brahmins.

The question whether such cohabitation is common between people who are not married to each other need not once again be answered especially in view of the observations already made in quoting the figures for rape in our Province (Ans. 3).

(3) It has already been observed that it is only among the Brahmins that we find few cases of girls attaining puberty before their 13th year. As these few cases are generally found to be in the towns and as these people have adopted the practice of postponing consummation, we can safely say that cohabitation before the girl attaining 13th year is very rare. Among the non-Brahmins, their custom of postponing consummation and the comparatively late age at which their girls attain puberty effectually prevent cohabitation before the girl's 13th year.

The cases of cohabitation before the girl attaining puberty are the only few cases that come before our courts of law. The other cases do not come before the courts either because such acts are committed in secret or because the aggrieved families feel reluctant to appear in court and publish the act which certainly tend to blacken the family honor.

7. The cases of consummation of marriage before puberty are unknown in our part of the country and I therefore refrain from speaking about it. There seems to be no direct religious injunction prescribing early consummation of marriage soon after puberty. But it must be noted, the rule contained in Yagnavalkya and Mitakshara that the husband should visit his wife within 20 days after the flow, the first 3 days being expressly prohibited and that a husband violating it becomes guilty of facticide is explained to prescribe the early consummation of marriage. Even a single lach is sufficient to make a person guilty. Moreover, laches committed during different periods are considered to be separate and distinct offences, and the person guilty, therefore, becomes guilty of so many facticides. To prevent therefore, a person from becoming guilty of such serious offences and to prevent that person from undergoing unknown turmoils in hell after his death, it is suggested that nuptials should be celebrated as early as possible after the attainment of puberty. Probably, the two texts already mentioned and the peculiar construction put upon them to hasten up the consummation of marriages were responsible for the popular notion that no special care be taken for finding an auspicious day if consummation is celebrated during the first fortnight after the attainment of puberty.

8. Garbhadan ceremony is usually performed in our part of the country. It is always performed at the time of consummation of marriage. I have till now neither known nor heard of any case—not even a stray case—in which this ceremony was celebrated anterior to the consummation of marriage. Probably, the custom of celebrating Garbhadan anterior to the consummation of marriage is found among certain sections—very few indeed—of the people of the Madras Presidency and of the Nizam's Dominions among

whom the custom of celebration of nuptials long before the attainment of puberty by the girl is prevalent. In such cases, the ceremonial portion of the consummation is celebrated before the girl attaining puberty and the couple are permitted to remain together, the physical act taking place soon or some time after the puberty. Since this practice is not found here we may safely say that the Garbhadan ceremony is celebrated only at the time of the consummation of marriage.

Certain statements made in answer 6 (2) constitute a sufficient answer to the last section of this question. It is therefore unnecessary to repeat what has already been stated.

9. Mere attainment of puberty is not certainly a sufficient indication to justify consummation of marriage. To justify consummation, many other facts than mere attainment of puberty have to be seriously considered. Among the facts which have to be seriously considered, the physical development of the girl is the most important one. The popular idea—probably it is supported by medical opinion—is that the girl begins to grow only after puberty. If this is accepted, as it is commonly done, it follows that consummation ought not to be celebrated immediately after puberty. Postponement of consummation to at least six months after that time seems to give a sufficient time for the girl to develop. Even this suggestion does not seem to lay down a good rule in certain individual cases when the girls are peculiarly weak. In such cases, a longer period of waiting has to be enforced. In considering the time for consummation, the mere lapse of half a year should not be the only consideration, but the fact of the girl's physical development ought seriously to be considered. It is hardly possible to mention a definite age at which all girls in a particular community are physically fit for consummation. As the age at which girls attain puberty varies in different communities, the periods at which consummation is to be celebrated must also vary. It may be said generally that waiting for a period of six months after puberty allows sufficient time for the girl to develop, but it must be remembered, allowance should always be made when the girl is still weak. My suggestion does not also try to effect any radical change in the custom nor does it offend any religious principle. Medical opinion on this point may usefully be consulted.

10. It is very difficult—almost impossible—to say that girls can give an intelligent consent at a particular age. Intelligent consent to cohabitations can only be given by girls who know its consequences. It, therefore, follows that consent cannot be given by girls who are very young, or who are not sufficiently educated or sufficiently informed. The suggestion that consummation should take place at least after six months from puberty is sufficiently in my opinion to give a fair chance to every girl to get herself informed about the meaning and the consequences of her consent. If it is imperative to mention any definite age at which girls generally will be able to give an intelligent consent, I would suggest 13½ years as the proper age. In arriving at this age, I take that girls attain puberty only after 13 years thus excluding the very few cases which occur before that age.

13. It is already stated that the generality of people in this part of the country are not aware of the amendment in 1925. Such being the case, it is unwise to say that there is any development of public opinion on the subject. It can therefore be said that no definite public opinion has been formed either in favour or against any extension of time. The only persons who can be credited with any knowledge of the amendment are the few educated people who are sharply divided in their opinion about the extension of time. One section which consist of a majority of educated people is reluctant to any extension of the period, while the other influenced by the newspapers favours an extension of period. Persons of this latter class are very few and negligible.

14. Generally it may be said that women in our part of the country do not favour early consummation of their children. Cases of women desiring early consummation of their children are not also unknown. In all those



cases, it may be noted, they favoured early consummation not because that they desired early consummation of their children, but because certain other causes forced them to desire so. To avoid the consequences of the still valid custom of keeping the husband and his young wife separate till the formal ceremony of consummation is over, women have many times favoured early consummation of their children. Economic necessity have forced women to hurry up the nuptials of their children. The destitute and widowed mothers do naturally wish that their orphan daughters should be consummated early so that they may live more comfortably at least in their husbands' houses. In addition to these the idea of the likelihood of the children going astray and the innocent desire of seeing their grand-children before they (grand-parents) disappear from this world have not very rarely influenced ladies to hasten up the consummation of marriages.

It has already been stated that cases of offences under 375 and 376 are very rare in our part of the country. The experience gathered on the subject does not seem to be sufficient to give a definite opinion on the difficulties experienced. It is no doubt true that in some cases difficulty was experienced in finding the age of girls in cases where the offence was alleged to have been committed on very young and immature girls. But it does not seem that any legislative measure can effectively remove these difficulties. The ascertainment of age of persons can never be laid down in a hard and fast legislative measure. It is best left to the discretion of the Magistrate trying the accused. It is therefore neither necessary nor possible to make any hard and fast legislation rule for the ascertainment of age in such cases.

16. All the difficulties which present themselves when the Age of Consent is at 13 also present themselves if the period is raised to 14. Now it is the difficulty of ascertaining whether the particular girl has reached her 13th year and later if the period is raised to 14, it will be the difficulty of ascertaining the age. Better, physical developement of the girl it may be said, may assist in the easy determination of age. Better, physical development no doubt there will be, but such physical development will confirm that the girl has completed her 13 year but it presents the same difficulties that were present while ascertaining the 13th year.

If the period is raised to 18 years and above, it may be possible to ascertain more definitely the proper age of the girl and most of the difficulties that present themselves in finding the correct age may not be present then. It is only at or after her 18th year that a female can be said to have emerged from her girlhood and to enter into womanhood. The distinction between girlhood and womanhood is certainly more marked than the distinction between the 13th and the 14th years. If it is not contemplated to raise the age by substantially a good number of years to 18, then it is not desirable to raise that period by one year in order to remove the slight difficulties in ascertaining the age.

The very few cases that have come before our Courts have not presented many great difficulties. It is therefore, suggested that the present Law may be allowed to continue.

18. Slight change in procedure seems to be necessary in the procedure of trials for offences within marital state. There is a likelihood of the investigating Police Officers harassing the people under the pretence of investigating into an offence. To save a great deal of embarrassment and inconvenience to the public, it is suggested that the previous sanction of the Local Government be taken before the Police launch upon any investigation and trial.

19. As the existing Law on the subject is not known to inflict any unnecessary injury to the accused or unduly favour, any collusion to protect the offender, no change in it, in the existing Law seems necessary.

20. I would suggest that Penal legislation fixing the maximum Age of Consent for marital class is likely to be more effective than legislation fixing the minimum age of marriage for the following reasons:—

- (a) Fixing a minimum age of marriage for girls interferes directly with the religious principles of the people. Manu, the Law

giver of the Hindus, clearly says that the 8th year is the proper age for the marriage of girls. But the custom in these parts is to marry the girls after the completion of their tenth year. Though the people passively tolerate any slight variation in the established custom, they do not like to countenance any direct and violent change effected by a foreign body like the legislature.

- (b) The custom in these parts is decidedly in favour of pre-puberty marriages. Since the attainment of puberty is an uncertain event—uncertainty regarding time only—no definite period for marriage can be fixed for marriages.
- (c) The age at which girls are married differs in various parts of the country and among different people. It is therefore, difficult to determine any period as the proper age for marriage of girls. Even if any such thing is attempted, it only leads to great deal of unnecessary confusion and trouble.
- (d) Our marriages are really betrothals and these betrothals are never known to cause any serious harm to the girls—except of course the possibility of early widowhood, a topic which is beyond the scope of this answer.
- (e) Fixing a minimum age for consummation does not cause any great inconvenience to the parties. What it does is to postpone the consummation. The present tendency in these parts is to postpone consummation and if a minimum age is fixed for consummation, it will give a legal sanction to what people are already doing.

Fixing a minimum age for marriage for males does not seem to be necessary as the boys in these parts generally marry after their 18th year. Any attempt to raise the age above this period without any corresponding raise in the age for girls, will cause great inconvenience to the custom-bound parents who marry their daughters before the girls attain their puberty. Moreover such an attempt (without any corresponding attempt to raise the age for marriage of girls) will help to establish and perpetuate a wide disparity in age between the husband and the wife. Therefore a raise in the age of marriage for boys is neither necessary nor desirable.

Fixing the minimum age for consummation is more in consonance with public opinion in these parts than the fixing of a minimum age for marriage which has the tendency to interfere with the religious practices of the people.

21. Mere strengthening of Penal Law without any corresponding progress of social reform will never succeed in effecting the object in view.

The subject presents great difficulties in the proper enforcement of Penal Law and affords many facilities for its violation. It is always better to have no Law which is constantly disobeyed. Constant disobedience in addition to destroying the Majesty of Law puts the people into the habit of disobeying any and every Law. The subject presents very many difficulties in the proper drafting of the Law which must be applicable to the bulk of the population in the country in addition to encountering many difficulties in its proper enforcement. The local conditions in various parts of this vast continent are difficult and require separate and practically independent legislation, if legislation is ever attempted. Not only do different provinces in India require separate treatment but also the various parts in those different provinces require separate consideration. The task therefore, becomes hopeless and never-ending. But legislation should not be abandoned on this score but attempts should be made at it wherever it is found possible and absolutely necessary. Legislation must content to be mere hand-maid of Social Reform always assisting it but never pretending to lead it.

Social reform has the peculiar merit of effecting changes without providing any opposition or violence while any change sought to be effected by Law has the unfortunate tendency to rouse up criticism and hostility towards it.

Social reform coupled with the spread of education is likely to effect a more permanent change than the Penal Law attempting the same. Social reform and spread of education bring about a change from within while the Law is content with only an outward change. A change from within is any day a better change to be effected than the mere outward show which will be doubtful. It is for the above reasons, suggested that mere legislation will never succeed in effecting the change sought to be effected. It should go side by side with or even follow the spread of healthy Social Reform and liberal education. Between these two means of effecting change, more stress should always be laid towards Social Reform and education.

**Written Statement, dated the 4th August 1928, of the Coorg Land-holders' Association.**

1. There is no public opinion on the subject in Coorg.
2. There should be an advance on the existing law. It is for the good of the future generation to allow motherhood after the body of the mother is fully developed.
3. Crimes of seduction and rape are not frequent in Coorg. No case of cohabitation below the age of 13 years has come to our notice.
4. Without any reference to the law, the age of marriage and consummation of marriage has risen generally even amongst the communities amongst whom early marriage is in the custom. The proposed bill will be of further help to delay marriage.
5. Girls usually attain puberty in the 13th year in Coorg without distinction of caste or creed.
6. Cohabitation before puberty is not heard of here. (2) There are cases of cohabitation soon after puberty. (3) There may be very rare cases of cohabitation before the 13th year. No case has come to court.
7. Early consummation is not based on religious injunction. Attainment of puberty without regard to age is supposed to be time enough for consummation.
8. Amongst Brahmins there is the Garbhadan ceremony. This coincides with the consummation. This is in some instances performed within 16 days after the attainment of puberty.
9. No. We think that the girl should have completed at least 15 years of age.
10. 15 years will be minimum age when the girl can give an intelligent consent to cohabitation.
12. We consider that early consummation is one of the causes of high maternal and infantile mortality and for the physical degeneration of the people generally.
14. Females are not in favour of early consummation in Coorg.
16. Yes, the difficulty will be reduced if the Age of Consent is raised to 14 years.

**Written Statement, dated the 9th August 1928, of Mr. P. R. T. PUNJA, M.L.C. (Coorg), Glenmore Estate, Mercara P. O.**

1. As far as I am aware there is no disaffection in these parts.
2. The majority of Educated Indians feel and do admit that early marriage and the consequent early motherhood cause physical deterioration of the people, but many of them are forced to yield to custom and convention against their conviction. This physical degeneration must be put down as early as possible and therefore an advance of the present law is needed.

3. Such crimes are not frequent in Coorg or the adjoining district of South Kanara as far as I know. I have no information on the remaining points in the question.

4. The amendment of 1925 has certainly stimulated public opinion. The orthodox and the progressive people have been driven to express their opinions freely and the discussions have tended to strengthen the ranks of the progressive party and educated people are more emboldened and inclined to break the old conventions. I have no information on the other points raised.

5. It is not possible to give the usual age of puberty with any amount of accuracy, but it is said to be generally between 12 and 14 years of age. Now-a-days this fact is suppressed for various reasons. For instance, amongst Brahmins, marriage before puberty being compulsory, if girls happen to attain puberty before marriage, the fact is often kept a secret until after the marriage.

The age of puberty does not seem to depend upon caste or community, but on individual constitution.

6. Cohabitation soon after puberty is common wherever early marriages are in vogue, but it is difficult if not impossible to say whether the girl has completed 13 years or not.

Such cases have not come to court in these parts and are not likely to come to court. When it is so very difficult to get suitable husbands for girls and when dowry has to be paid and a lot of expense incurred for the marriage, it is preposterous to expect either the wife or her relations to file a complaint against the husband or even bear witness or in any way aid the prosecution and thereby lose a husband and also face all the unpleasant publicity.

7. The practice of early consummation of marriage at puberty is prevalent chiefly among the Brahmin communities in these parts and they attribute the customs to religious injunctions. I am unable to quote the exact authority on which they rely. I am inclined to believe that it originated with the anxiety of parents to send the girl to live with the husband soon after puberty in order to avoid all possible risk of scandal. Such cases of cohabitation before 13 years even if they do happen are bound to be hushed up.

8. Usually amongst Brahmins the custom is to perform the "Garbhadan" (or Shobhana Prastha as it is popularly termed), i.e., the consummation of the marriage ceremony between the 7th and 16th day after puberty. If for any reason it cannot be performed during this period, it is performed some time later, but at the earliest opportunity because the girl after puberty until this ceremony is performed is considered to be under some sort of pollution. She is not allowed to go to temples, or even into the kitchen and orthodox persons refuse to eat food served or touched by her.

9. Attainment of puberty cannot be considered as a sure or correct indication of physical maturity. Many girls of weak constitution attain puberty even at about 12 years of age. It is impossible to prescribe any exact age limit for the consummation of marriage as it needs must vary according to individual cases. Therefore, to be on the safe side, I should consider that at least two or three years should be allowed to elapse after puberty for the consummation of marriage.

10. I think unless she is sixteen years old, she is not fit to give such consent nor realise the consequences.

11. As a layman I am unable to give any detailed instances of special injuries resulting from early consummation of marriage, but I have seen persons whose general health has been shattered on account of early motherhood and generally the off-springs are weak and sickly.

12. Certainly it does affect the physical progress of the people. As regards mortality, from a layman's point of view, I should consider that the younger the girl the less she is expected to know of maternity and

infant problems. Inexperience and poor health, of the mother on account of early motherhood, are to some extent responsible for the Infantile mortality.

13. Yes, there is amongst the educated classes, but it is not unanimous.

14. Chiefly among Brahmins the women do seem to favour early consummation of marriage of their children and they seem to think that it will prevent them from going astray.

15. I have no information.

16. Yes, I should think so. A girl of fourteen or above is bound to show a better and more reliable development of feminine characteristics and so minimise errors.

18. In marital offences the proceedings should all be in camera.

20. I think that one piece of legislation is only a complement of the other. To have any one of the two by itself will be of but little use. Therefore along with the raising of the Age of Consent, the minimum age of marriage should also be fixed by legislation.

21. The strengthening of the penal law will certainly help the progress of social reform. If left to the progress of social reform it will take ages to get rid of these pernicious practices. The very fact that these have survived till now shows that legislation is necessary. But for legislation the practice of "Sati" and "Infanticide" might have perhaps continued to this day. No doubt at the beginning there will be some opposition from certain sections, but in the long run all parents will welcome it. As it is, because marriage before puberty is compulsory, and some husband has to be found in a hurry for the poor girl, especially if the girl is nearing the age of puberty, there is no chance to choose a suitable person at leisure. Some how the girl has to be got rid of before puberty.

**Written Statement, dated the 13th August 1928, of Mr. S. S.**

**SETLUR, B.A., LL.B., Advocate, High Courts of Bombay and Madras, Bangalore City (Mysore).**

In order to shorten my observations and make my points readily intelligible I shall deal in this prefatory para. the points raised in questions 21, 16, 15, 9, 8 and 7 all at once.

Of the two great communities inhabiting India, the Hindu and the Mussalman, marriage is a great religious sacrament with the former and a mere contract with the latter. Early marriage is not countenanced by the Mohammedan Law, much less early consummation. But yet in Southern India, to which my intimate experience is confined Mussalmans, particularly in rural parts, often marry their children young, just as they adopt the Hindu system of partition among their children. Even the compulsory partition between the father and the son, they imitate. This is a state of affairs which is good to the locality concerned, because it creates a feeling of oneness between the members of the two communities. Mussalmans feel and act as if they were a sub-caste of the Hindus. As early marriage among them is merely an accident, the practice will disappear more readily if a change comes over in the practice and principles of the Hindus. The proposed raising of the age will therefore do no harm to the Mussalmans.

As to the Hindus, my study of the Indian Culture and Civilisation and observation of Hindu life from within has led me to believe that the Hindu Polity which includes in its scope all the phases of the life of a civilised community has been the result of the reaction of the Idealism of the Aryan on the matter-of-fact realism of the more ancient non-Aryan, whose complicated civilization was well organised and highly developed, long before the two came together. The ceremonial of marriage and

its practices afford very good proofs of this. There are credible indications to prove that before the Roman branch of the Aryan race which peopled Greece and Rome separated from the rest of the race, the Aryan Polity was entirely based on the conception of Duty only. As Prof. Holland has pointed out in his Jurisprudence, the idea of "Right" (Richt) was later and the conversion of the entire system of Law into one of rights came later still. It was further developed by the theory being formulated of the *Inherent Rights of Man*.

So far as the Hindu branch of the Aryan stock was concerned, till the British Rule forced British Laws on the Hindus, the whole scheme of Hindu life, Religious and Secular, was based entirely and exclusively on the conception of Duty only. Non-realisation of this simple central fact underlies most of the misunderstandings and misconceptions of the vociferous aggressive Anglicised section of the Modern Hindus. In Hindu Law, the highest Brahmin who is now the butt of universal, ridicule, hate, and dislike, particularly of the Higher non-Brahmins, was as devoid of any sort of Right as the most despised of the so-called depressed class. From the worldly view point, he was worse than the rest; because, more rites were prescribed to him for performance from day to day and hour to hour, than to any other. There is no word for the conception of Right as such in Sanskrit. "Adhikar" is the nearest word in use, but every student of Hindu Law knows that it means capacity to discharge a Duty. The word Rich is there, but Right in its modern sense is not one of its manifold meanings. Man is said to be born not with inherent rights, but with natal debts owed to Man, Gods, Rishis and Ancestral Manes in whose discharge every true Aryan has to spend his life. The performance of these duties, pre-supposes purity of blood, of mind, of habits and so on. In order to acquire physical purity by the removal of impurities inherited from the parents (Bija Garbha Samudbhavam) various Samskārās—Purificatory ceremonies beginning with Conception and ending with Cremation are prescribed for the Aryans in general—not only for the Brahmans, but also for the Kshatriyas and Vaishyas who, under the present day enlightened amiable Dichotomy, would rank as "Non-Brahmins". They were eighteen in number. All were indispensable to the Aryan. However, as secularism of outlook advanced, many of the intermediate ceremonies were neglected. Even some hitherto believed to be indispensable to the Brahmana are of late not performed at their appointed time, but as a part of marriage or Upanayana (or initiatory ceremonies) which are believed to be indispensable still.

But of the two, Upanayana alone was indispensable to the male, because the Law allowed a student remaining such without marriage all his life. Such a one was called Naishtika or Perpetual Student. (See West Buhler's Hindu Law). As to the woman, allusions to such students of Rishis as Maitrayee and so on and the survival to the present day of the ceremony of the tying of Munji (or a belt of Kusha Grass) round the waist of a girl as part of her marriage ceremony go to prove that in the remote past the initiatory ceremony of Upanayana was performed even on the female. This was perhaps before the religious feud broke out between the Zoroastrian and Vedic branches of Aryans which led the latter to immigrate into the Punjab or the former into Iran (whichever was true). For, we find that among the Parsis of the present day, a similar ceremony is performed and the female wears the waist thread exactly as her brother. The practice among the Hindus seem to have ceased very long ago. It was perhaps due to the dominating influence of the non-Aryans, among whom the Hindu Aryans had to live in India. Whenever that happened and for whatever reason, it is quite certain that it gave rise to the present rule that a person should never remain unmarried, because marriage was the only purificatory ceremony permitted to her. This explanation assumes that the Aryan Ceremonials and the rest were influenced by non-Aryan customs, even in such remote past and to the prejudice of the woman too. That is my conclusion. I can adduce proofs which seem to me

convincing. But whether it will convince the Committee, I am not in a position to say.

Thus came the idea of indispensability of marriage to the woman.

But this is not enough to answer the question 7, which refers to the indispensability of consummation. That question is bound up with the forms and formalities of marriage and I must shortly refer to them and their history.

Much abused Manu and other Aryan Law-Givers mention eight forms of marriage; two of which are clearly cases of Rape and Abduction. Hinduism has come in for cheap ridicule and contempt on this account at the hands of its prejudices critics. But a reference to Pollock and Maitland on "Early Laws of England" will convince the Committee that all these forms were recognised in England as legal. If so, it follows that they were known before the Saxons and Tuetons separated from their elder brothers the Hindu Aryans. The learned authors of that invaluable work speak of "Rape-Marriage" and so on. Thus, it might be safely taken as established that in India as well, even among Aryans all the eight forms were in use. One of them in Gandharva or marriage of adults by Courting. Gradually, when the hereditary caste system was evolved, different forms came to be considered as most suitable to different castes; evidently in view of the qualities which had to be developed in each, in order to enable it to perform its specialised function with adequate efficiency. The Brahma form, in which the gift of the bride by the parents or guardians was an essential factor, came to be regarded as suitable to the Brahmana whose function was learning and teaching Vedas and Secular Sciences (Kalas), and setting example to others of pious and highly moral life. Gandharva form which is the only one now in vogue among the Western Aryans was regarded as particularly suited to the Kshatrias, and the Asura form for the Vaisya; because, I suppose, money had to be paid for the bride. In passing, I may call attention to an interesting fact that even in Marriage, by courting, of Europeans, even now the giving away of the bride by some one is an indispensable part of their marriage ceremony. Does this not suggest that before the European branches separated from the parent stock, the fashion of looking upon the Brahma form as superior form among the eight had come to prevail. That practice also shows that, for that form, the bride need not necessarily be a minor as is invariably the case now among Brahmins in Southern India and elsewhere. It will be convenient here to note the fact that even the ceremonial now performed in Hindu marriages, does not render minority, a condition precedent to a valid Brahma marriage. Just as, among Parsis, the consummation takes place at the end of the ceremony, so the Hindu ceremonial proceeds on a similar assumption. The last part of the ceremony is known as Nagavalli, (or the ceremony of the bride and bridegroom chewing betel leaves), and the Mantras then recited and forms observed are the same as in the Garbhadhana or Consummation ceremony. That shows that the present orthodox belief on which so much stress is laid by Pundits and their clientele, that the marriage ceremony must take place before the girl attains her puberty, is directly contradicted by Mantras they themselves recite. How then did this belief arise? For an explanation, we must again study the ceremonials prescribed by Hindu Law.

It consists distinctly of four parts (1) Nischitārtha or Betrothal, (2) Kanyādāna or Bride-giving, (3) Udvāha or marriage proper between the bridegroom and the bride direct without either parents having anything to do with it. Lastly (4) Nagavalli, when Garbhadhana Mantras and forms are gone through, without actual consummation which seems absurd.

It will readily be noticed therefore that for the first two, Majority or Maturity of the parties is not indispensable. Whereas the last two ceremonies pre-suppose necessarily that the parties are mature enough to enter into a marital contract and perform marital functions. Hence, it follows that the practice prevailing in Gujarat and some other provinces

of performing at first the betrothal ceremony by itself at an young age of the bride and bridegroom and reserving the rest of the Vedic ceremony, which makes the relationship irrevocable, for a later occasion, after both attain the age of discretion, is strictly in accordance with the Hindu marriage Laws propounded in the Smritis. The practice in Pandit-ridden Madras for performing all the four parts at one and the same time, one after the other, when the girl is still young is against the letter and the spirit of the Smriti Law on the subject. The belief which widely prevails among the Southern Indians that minors alone should be married is due to the later practice of performing the subsequent parts of the ceremony immediately after the Nischitartha and all at once. When and why this departure from the strict Smriti Law came about can be explained. But that is a matter of opinion. I will not risk space on it.

This is not all. There is still another enormity which is still less excusable in those who profess to adhere to the Smriti Law.

The rule prescribing the age of 8 and 12 as proper for the marriage of a girl also prescribes 24 and 30 as the marriageable age of the bridegroom. If it is sacrilege to raise the former limit is not the lowering of the latter equally so? (See Manu Chap. Trimshadvasho valied kanyam . . . . .).

In the march of the time, changes are inevitable and an Institution which does not adjust itself to them as they occur does not deserve and will not alive. Adjustability to environment is the test of Life. On the other hand, hastily to undertake changes in such Institutions as marriage bound up so closely with the very existence of the Race with every new ill-digested idea in fashion for the time being, is to play with fire. It is sure to lead to social disaster, whose consequence it will not be easy to calculate, much less to prevent.

Hindu Institutions have survived so many vicissitudes brought on by Time and adjusted themselves to the political and other changing currents of thought and practice that it will not be difficult for an honest reformer to find suggestion to remedy any defect that may now be discovered in their past history itself. Hence, I have ventured to give the above sketch of our marital law, past and present, in the belief that it would be useful in suggesting the lines on which the present reform should proceed.

As to general question of the desirability of social legislation raised by the last question, it would be useful to examine if there have been any methods of reform in vogue in India in the past.

A close examination of our social history, so far as is possible to construct it from the meagre materials now available on the subject, suggests that momentous reforms have been carried out in this country. To mention only one instance—Strict vegetarianism eschewing even fish, supersede flesh-eating which had the sanction of the hoary religious Institution of Yagnya which has survived from before historical times to the present day. Jainism claims the sole credit for this. Its doctrine of Ahimsa put force or coercion as means of reform out of question. Buddhism at one time was a State religion and could have used political power to enforce its views. But Jainism never was such and could not be suspected of having propagated itself with the help of political power. But yet, more than half of Hindu India has rigidly eschewed flesh and adopted strict vegetarianism. To adjust the written law to this new departure the method of interpretation and fiction was adopted. Sir Henry Maine puts this method down as inferior to direct legislation. That view was accepted as Gospel truth, when the Benthamite ideas held the field in England and the Continent. Now Collectivism which was also considered as antiquated by that school has again taken the field. Therefore it may be permissible to doubt whether reforms could not be effected now by the old method of interpretation and fiction, which are even now considered as the only methods by conservative India.



As to legislating on the strength of medical opinion of the present day. I am too old to subscribe to that proposal. I started my science study in the seventies with books which taught us of about sixty elements. Then came the Hydrogen theory. Now the theory of atoms has come to stay. Everyday the cocksure ideas of the Scientists are being discarded even more quickly than old clothes. In the practical science of law what value is attached by the Judiciary to expert evidence could be easily learnt from any recognised book on evidence. Moreover, we are said to live in a Democratic age, where everything is to be decided by the counting of heads. What right then, have we Anglo-Hindus to force our latest fashions down the throats of the millions who still believe as of old. On all these grounds, I am against legislation in such matters, particularly in marriage. To do so now would be nothing less than undiluted tyranny of a minority over the majority.

Jurists like Dicey have taught us that even in Europe, Law is moulded by opinion which means, of course, of the majority. When it is well known that the majority in this country is against the proposal or has formed no opinion on it, how can the passing of such law be justified by any cannon of justice or fairplay? For ages, we have carried out all our reforms by the method of Example on the one hand and Imitation on the other. No less an authority than the Political Philosopher James Bryce has shown what important part the Imitation Instinct plays even now in the domain of Law. In this very case, we know that even according to the present orthodox interpretation of our Marriage Law the marriage of a minor is only prescribed in the case of the Brahmins. Non-Brahmin castes which are expressly permitted by Smritis to marry their girls after maturity, have adopted the Brahmana custom. So many of the Brahmins are educated and they are never slow to swell the chorus of condemnation of the marriage of immature girls. The proper method is to compel them to give effect to their ideas in action by social boycott and the like. I have already said enough to show that a reversion to the Law prescribed by the Smritis would amply secure the desired end.

I shall now give my definite answer to the questions above mentioned in the reverse order.

*Question No. 7.*—The practice of consummation before puberty is unknown in Southern India, except as a crime which is promptly punished under the Penal Code. This province has been saved from this unnatural offence by the importance attached to the Smartha ceremonial. As already pointed out, instead of Betrothal permitted by the Smritis the whole ceremony including (3) and (4) is performed between young immature children. But in all communities, public opinion attaches very great importance to the ceremonials performed on the occasion of the menses and the subsequent consummation ceremony. Consummation before the menses is considered sacrilege. Moreover, the social etiquette in the Tamil Country and in Mysore looks upon the meeting of the immature couple in private even socially as improper and bad manners. Hence, the evil referred to in the question does not touch this part. How it is in Andhradeea I am not sure. So far as I know, even there the same ideas seem to prevail.

I must however mention, that the present phase of Anglo-Indian fashion which has torn off the veil from the face of Venus and the system of giving mere intellectual education without any regard for good manners or character have destroyed ideas of decency and propriety among our youths, most of whom are half-educated. It is no wonder, then, that they, sometimes, transgress the salutary social laws of etiquette. This is an evil which originates in encouraging youths to mistake license for liberty and grow up without any sort of discipline. The remedy is to be found in educational reform not social.

I believe, in some other provinces, the pernicious practice of letting the young girls and boys to sleep together on the performance of the Nagavalli ceremony obtains. That is undoubtedly an unwarranted evil.

which I believe the enlightenment of the present day has made scarce. I am not in a position to speak of Northern India as I am ignorant of the custom there. As, however, the law of marriage described above is common to the north and the south, the reform will be following the line of least resistance, if a strong public opinion to bring such communities in line with Southern India be created. I have already said enough to show that no injunction of the Hindu Law even condoned an unnatural consummation. If it had, India would not have become the habitate of a fifth of the Human Race. On the other hand, the express law is that a woman, when once she has menses in the natural way, would be guilty of child-murder, if she loses that chance of presenting a progeny to her husband (See Parashara Smriti and Madhava's commentary thereon, *Ritumātatu yanari* . . . .). But even, in Southern India, where Smritis are more strictly followed than elsewhere, this injunction is not regarded as Vidhi or a strictly obligatory precept; for, to allow months to intervene between the appearance of the menses and the consummation ceremony is of every day occurrence. •

That being so, question of penalty will not arise.

*Question No. 8.*—See above . . . . consummation is always after menses. Except the recitation of the Garbhadhana Mantras in the Nagavalli ceremony, there is nothing more.

*Question No. 9.*—The Parashara's text above-cited regards such attainment of puberty as sufficient indication of the girl's fitness for consummation. In my youth, 40 years ago, when the old Smriti order of things and religious practices ruled the society, this limit prescribed by nature herself was found ample and adequate. In the case of cattle, we know that this rule is followed and no evil consequence is experienced. Hence, if the moral atmosphere of a given society is normal and natural, this test would be more than enough. As I said, under the old order, no girl attained her puberty, unless her physical development fitted her to assume the burden of motherhood in every way. I well remember the sensation that there was in our community at Bangalore when, for the first time in its experience, a girl attained her age early in the fourteenth year. Here was the family which first departed from the old habits of living and acting and adopted the practice of taking stimulants such as coffee early morning and entertaining a secular outlook on human relations sexual and others and call in the aid of allopathic doctors who were then making free use of alcohol and other poisons in their prescriptions. The next case was one of maturity at 12 years which of course was unnatural. It was also in a family which had departed from the old style of living and had contracted the habit of a free use of stimulants in the daily life. No member of my family ever has attained age before 14 and in those times, even 17 was not rare.

These facts prove that it is not wise to bring such matters under the stereotyped law applicable to the whole sub-continent by means of coercive legislation. The resulting mischief will be greater than any advantage secured.

I may take this opportunity to draw attention to what I regard as a vital factor in determining this question of suitable age for marriage. As already indicated the earliest age permitted by Manu for a youth to marry is 24 (Thrimshad Varsho . . . . See Manu Chap. . .). No firebrand reformer can complain that it is too early. The same text makes 8 the age of a girl. I have said enough to show that this was for mere betrothal or Nischitartha, the first part of the ceremony. There is no question of consummation, as the rest of the ceremony, assumes previous maturity. In normal cases, in a healthy society, maturity would never occur before 14 at the earliest. If this is the normal period, where is the necessity for legislation? Then again, if the limit is fixed at 14, what about the case where a girl does not attain puberty, till a later period? Will consummation do no harm in such a case?

Legislation assumes abnormal conditions. Undoubtedly, the present wretched system of calling mere Literacy, Education and over-looking the training of other sides of human nature is the cause of all the evils we now complain of in Indian society. Many of them were unknown under the old order. I may mention an instance. One of the evils which is sapping the life both our manhood and womanhood is the evil of self-pollution. I have noticed it in very young children of modern days. Forty years ago, this evil was almost unknown. Sodomy there was, among low class Mussulmans and one or two sections of Hindus but *never* among decent Mussalmans and Hindus. Self-pollution was exceedingly rare. There was no sex consciousness even among mothers. Sexual immorality among family women was equally rare. There was, however, the evil of public courtesans. It was more largely prevailing than at present. Hence, unless a man got the contagion of venereal disease from a Courtesan, no sort of sexual sin was known. Young boys and girls in this country looked then as bright and sparkling and robust as any European. Abnormal sex consciousness is the greatest hane of the present day Indian society and there seems to be conspiracy of silence over this new evil among our social reform fire-eaters. This is an evil of later-day-origin due to abnormal conditions, introduced by the present day social habits due to our contact with the British Rulers. Miss Katharine Mayo uses this in furtherance of her sinister purpose of perpetuating our slavery without knowing that it furnishes the strongest argument against Western domination over the East. The Committee will be doing incalculable service to our country if it will take this opportunity to get the Government to order an examination of the boys in typical schools in each province and determine the origin and extent of this evil.

Even in England, I believe there was such an enquiry. Its results have been published in a book form.

In my opinion, this new evil is doing a hundred fold more mischief, among our youths than early marriages. Hostels are often hotbeds of sexual evils. One of my wards accidentally caught the habit. In order to cure him, as I thought, of the evil, I sent him to a hostel of a leading Government College which was particularly strong in athletic sports. I expected that diversions provided by sports would keep its hostel free from such evils. I soon found that worse evils prevailed and at once withdrew the lad. It was only by marrying him at once that I was able to cure him of the vice. Nevertheless, he died comparatively young at about 50 because of this lapse in his youth. If, by law, I had been prevented from marrying him he would surely have died much earlier or have been crippled for life. Hence, I am against Mr. Sarda's Bill, however much I appreciate his laudable object. True reform does not lies that way. Change the Educational system, take up children in their infancy, keep them under discipline on up-to-date lines, and bring them up in a natural way without premature sex consciousness. The evil must be eradicated at its very root.

Cohabitation before 14 is too early for any girl. Therefore, in answer question 10, I would prefer that limit.

*Question No. 11.*—I have seen fine healthy girls suddenly develop sunken eyes and emaciated body. That is invariably due to either systematic under-feeding or self-pollution. In the case of higher classes, it is invariably the latter. Cohabitation of the kind referred to in the question is unknown to me except in one or two criminal cases.

*Question No. 12.*—Certainly that goes without saying. Increase in cases of consumption so much spoken of in these days, is due partly to what is stated in the question and partly to the spread of self-pollution among the young of both sexes. Under the old order, consumption among males was exceedingly rare. There was none among youths. It was frequent in delivery cases because of the old habit of keeping such ladies confined in ill-ventilated room for three or four or even six months. It was known by the name of con-

and woman's disease in Kanarese (*Bananti roga*). During forty years of my earlier life, I knew of only one adult man who died of consumption. He was addicted to sexual excess. No other case was known to me. During the last twenty years, consumption among promising young men has become very frequent. It is for the sponsors of this movement for marriage-reforms at break-neck speed to explain this undoubted fact.

*Question No. 13.*—For reasons already stated, this amendment will not seriously affect these parts.

*Question No. 14.*—I have already answered this question in a way. Women here feel scandalised only when the consummation ceremony of a matured girl is put off too long. But, generally, among Brahmans and higher classes, it is put off now-a-days at least for four or six months; some time even for one year or more deliberately in order to prevent the evils of early consummation. In this country, maturity is taken as the criterion, not age. No one would take any notice of a virgin girl of sixteen years if she has not matured.

*Question No. 15.*—Such difficulties are unavoidable as every lawyer knows. They must be met as they arise. I cannot think of any measure of general usefulness.

*Question No. 16.*—I have no opinion to offer.

*Question No. 17.*—The question is not clear. If it has reference to age alone, there should be no difference between the two cases; because in my view, the conduct of the husband is more reprehensible as it is his special duty to be solicitous of the health and welfare of his young wife.

If it has no reference to age, certainly, the stranger's act constitutes a more serious crime and deserves more serious punishment.

I must go back to—

*Question No. 1.*—I do not know of any dissatisfaction.

*Question No. 2.*—If an increase of cases of consummation between the old and the new limits to prove then advance would be justified. If not, retention of the present limit is advisable, on the general ground that department of law which touches, so universally, domestic relations should not be tinkered with at the instance of agitators because of their over-zeal for the importation of foreign ideas into their society. To do so is highly detrimental to the welfare of the society at large.

*Question No. 3.*—Such cases are not frequent. Hence, other questions do not arise.

*Question No. 4.*—In our parts, the legislation has had no effect either way. On the other hand, as already pointed out, public opinion has automatically raised the age limit. This is due to education, and modern enlightenment among the higher classes and the influence of their example among others. What has happened here must be possible elsewhere.

*Question No. 5.*—Marriage, in the sense of betrothal, takes place among the higher classes generally between 11 and 15 and sometimes even at 17. Among the lower classes, it takes place even earlier. Consummation never takes place among any community before girl attain puberty. The earliest age of puberty is over 13 among well-to-do classes. Among the labouring classes it is over 14.

*Question No. 6.*—This has been already answered.

**Written Statement, dated the 10th September 1928, of Miss ZIMHA LAZARUS, B.A., L.T., Honorary Secretary, Mysore Ladies' Conference, Yari Vilas Institute, Bangalore.**

With reference to the conditions prevailing in the State of Mysore, I would add that crimes of seduction and rape are not frequent in this part of the country.

The answer to question 5 is 12 or 13 years, which does not differ in different castes, communities or classes of society.

Re question 11 the instances are far too numerous to mention.

Answer to question 12 is "Yes".

Answer to question 13 is that further development of public opinion in favour of raising the Age of Consent is general except in the case of the Brahmins.

Instead of answering each question separately, as the answers will overlap one another to a certain extent, I shall refer briefly to the main considerations on which the decision of this important question should be based.

It has to be promised that there have been material changes both in economic, social and other conditions of all classes of people throughout India that render it very necessary to alter many of our ancient customs and habits especially when they are found to be detrimental to the general welfare. The disintegration of the joint family system, the increasing migration of the people from their ancestral homes in search of employment and their tendency to concentration in towns and cities have been throwing upon women individually the burdens and cares of family life to a much greater extent than was the case in olden times when owing to the joint family system, this used to be divided among the several members of the family according to their age and standing. It is therefore very necessary that before women are required to undertake responsibilities relating to the management of families, their bodies and minds should be sufficiently developed to fit them for such duties. There is also due, to greater costliness of living, want of proper food and exercise, unhygienic conditions of life and the rush and hustle of modern life, progressive deterioration in the physique of women and as this is likely to be reproduced in a much worse degree in the next generation, it is essential that the duties of maternity should not be cast upon young girls scarcely out of their teens. Marital and similar relations soon after puberty have very bad effects both on the physique and the mental and moral conditions of women and eugenics require that women should be efficiently protected against acts on their person likely to be ruinous to their health and happiness.

According to the law as it stands, sexual intercourse is permitted for a man with his wife if she is thirteen years and above. Though probably most girls in India attain their 'puberty' when they are about thirteen, this cannot be laid down as absolutely certain in the majority of cases and in such matters instead of taking the probable lowest age at which a girl attains her maturity, as the criterion, it would be much safer to fix the age in which one can be absolutely certain that the women must have attained the age. In this view, fourteen will be a safer limit to adopt than thirteen, and there is no reason whatever why thirteen should be adopted for the exception, to Section 375, Indian Penal Code.

In my opinion, having regard to the undoubted evils, that even lawful intercourse will result in immediately after puberty, it would be desirable to prohibit this up to an age in which under ordinary conditions there would be no danger to health or life by such an act and it would have no injurious physical or moral effects. Experience throughout the world has shown that even sixteen years is not altogether within the margin of safety and making every allowance for a certain premature development due to tropical conditions, I am of opinion that even in the case of married persons the limit should be raised to sixteen. The main difficulty is the observance of the rule. Owing to certain religious prejudices, it may not be possible to prohibit ante-puberty marriages altogether and when people are joined in wedlock, there may be insurmountable difficulties to regulate relationship. Also such offences are difficult of detection and if subjected to inquisitorial enquiries from outside may lead to very serious results on the happiness of married couples. Though I am in favour of adopting sixteen for these purposes, yet, in order to prevent vexatious prosecution and to make the law effective, the age for such purposes should be fixed at least at fourteen if not fifteen.

When even in the case of married persons, I have pointed out cogent reasons to fix the age at sixteen, *a fortiori* for other purposes of Section 375, a lower age than his should be unthinkable.

Any artificial restrictions in regard to the exercise of marital relations will obviously be difficult to enforce and the only remedy is to prohibit marriages of girls below the age of sixteen and raise the marriageable age. There are no doubt religious and other difficulties in the way of this desirable reform, but this goal should be kept in view and in the case of persons on whom anti-puberty marriages are not compulsory on religious grounds, marriages below the age of sixteen should be prohibited, so as to gradually lead the way to overcome religious objections and make this the uniform rule.

Where marriages below the age of puberty have to be permitted, it is a very delicate matter as to how such offences should be detected and prosecuted. It is rather unlikely that any information will be obtained on this point either from the husband or the wife or even their relations on account of the disgrace that will be caused by such a disclosure. If the fact comes to the knowledge of any medical authorities, obviously they cannot be asked to give information to the Police. The raising of the age under the exception to Section 375 will ordinarily have only a moral effect, but even this is an object not to be despised. For the present, it does not seem to be desirable to invest the Police with authority to enquire into such cases and if there are any philanthropic and other organizations taking interest in such matters, prosecutions may be instituted on specific complaints by them, but such cases will be very rare. As I have already observed, prohibiting marriages below a certain age can be the only effective remedy and any other means of regulation will merely have a moral effect.

Extra-marital offences should be more severely dealt with than marital offences and have to be distinguished. In the case of marital offences in the present stage of public opinion, it may be dangerous to undertake prosecutions unless health has been actually endangered. Special precautions will have to be taken to see that such prosecutions do not degenerate into a means of oppression or disturbance of the harmony of families.

If the future physical vitality of the Indian Nation is not to be weakened and proper scope is to be given to women to fulfil their duties in life, early marriages should be avoided and unless the Age of Consent is raised to sixteen, imperceptibly the deterioration of the race is likely to become a serious menace. As a large class of people do not realize the evils, drastic legislation is likely to meet with both direct and indirect opposition. Education of the people as to the evils of such practice is necessary, but at the same time, as a first instalment, marriages should be absolutely prohibited among people whose religious ordinances do not make anti-puberty marriages compulsory before the age of sixteen and in the case of people to whom an exception is permitted, the Age of Consent should be raised to fifteen.

Indian ideals of the duties of married life and sexual relationship are in many respects in advance of those in European countries and while the law should be amended, so as to provide better protection, care should be taken to see that the inborn feelings of chastity and high standards of marital fidelity are in no way weakened.













